

1 STATE OF NEW YORK : NASSAU COUNTY

2 COUNTY COURT : PART XIV

3 -----  
4 THE PEOPLE OF THE STATE OF NEW YORK, :

5 - against - : IND: 1456N-00

6 PAUL SCRIMO, :

7 : JURY TRIAL

8 Defendant. :

9 -----x

10 April 30, 2002  
11 262 Old Country Road  
12 Mineola, New York

13  
14 B E F O R E:

15 THE HONORABLE JEFFREY S. BROWN,  
16 County Court Judge.

17  
18 For the People:

19 District Attorney - Nassau County  
20 BY: ROBERT BIANCAVILLA, ESQ.  
21 Assistant District Attorney

22  
23 For the Defendant:

24 JOHN CHAMBERLAIN, ESQ.  
25 1001 Franklin Avenue  
Garden City, New York

BUFF BRANSON, RPR  
Senior Court Reporter

People v. Scrimo

1 THE CLERK: Indictment 1456 N of 2000,  
2 Paul Scrimo.

3 MR. CHAMBERLAIN: John Chamberlain, 1001  
4 Franklin Avenue, Garden City.

5 MR. BIANCAVILLA: Robert Biancavilla for the  
6 People.

7 Good afternoon.

8 THE COURT: Good afternoon.

9 THE CLERK: Are you Paul Scrimo?

10 THE DEFENDANT: Yes.

11 THE CLERK: Do you appear here with your  
12 attorney, Mr. Chamberlain, sitting next to you in the  
13 courtroom?

14 THE DEFENDANT: Yes.

15 THE CLERK: Are the People ready to proceed?

16 MR. BIANCAVILLA: The People are ready.

17 THE CLERK: Is the defendant ready to  
18 proceed?

19 MR. CHAMBERLAIN: Ready.

20 THE COURT: Counsel, a little bit of  
21 housekeeping before we get to the Sandavol hearing.

22 The first thing I would like to discuss is  
23 the People versus Antommarchi case, Mr. Chamberlain.

24 Have you had the opportunity to speak with  
25 your client with respect to People versus Antommarchi

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1 and his right to approach the bench during the voir  
2 dire process or the right to hear so nothing is out of  
3 his earshot?

4 Mr. Chamberlain, have you had the opportunity  
5 to speak with your client with respect to Antommarchi?

6 MR. CHAMBERLAIN: I have, Judge. Confirming  
7 our conference this morning, the defendant will waive  
8 that.

9 THE COURT: Mr. Scrimo, has Mr. Chamberlain  
10 explained to you about your right to be present during  
11 the voir dire process and to hear when a potential  
12 juror should approach the bench what that particular  
13 juror is saying to the Court and to counsel?

14 THE DEFENDANT: Yes.

15 THE COURT: Is it your desire that you are  
16 going to waive that right to be present during these  
17 bench conferences and have Mr. Chamberlain represent  
18 you?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: And you have had the opportunity  
21 to ask Mr. Chamberlain any questions you have with  
22 respect to People versus Antommarchi and this right to  
23 go forward and listen at the bench?

24 THE DEFENDANT: I understand, your Honor.

25 THE COURT: You're willing to let

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1 Mr. Chamberlain approach the bench whenever a juror  
2 asks to approach the bench?

3 THE DEFENDANT: Yes.

4 THE COURT: Thank you.

5 Mr. Chamberlain, initially do you want me to  
6 precharge the jury during voir dire no unfavorable  
7 inference should be taken should the defendant not take  
8 the stand?

9 MR. CHAMBERLAIN: Yes.

10 THE COURT: I will do that.

11 Additionally, as counsel are both aware,  
12 generally the jury will not be sequestered, however,  
13 I'm required to give you an opportunity to be heard.  
14 It's my inclination not to sequester the jury during  
15 the trial or deliberations.

16 Mr. Biancavilla?

17 MR. BIANCAVILLA: With respect to the  
18 seriousness of the charges and potential publicity, the  
19 People request, for jury deliberations only, the jury  
20 be sequestered.

21 THE COURT: Mr. Chamberlain?

22 MR. CHAMBERLAIN: At this point, I don't  
23 agree, and I don't think there will be any necessity  
24 for sequestering the jury, certainly not during the  
25 trial or deliberations. I would oppose that

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1 application, unless there's a change I don't know  
2 about.

3 THE COURT: At this juncture, I plan not to  
4 sequester the jury and I plan to tell the jury that I  
5 will not be sequestering them.

6 However, if something should happen as a  
7 result of a later application made by counsel, that can  
8 be revised. At this point, I will be telling the  
9 potential jurors they will not be sequestered.

10 Counsel, additionally, I told you in chambers  
11 that I will be setting time limits with respect to each  
12 round. With respect to round one, I will give you each  
13 30 minutes; round two, 20; and each subsequent round  
14 after that, 15 minutes.

15 Additionally, I will be keeping the sworn  
16 jurors separate after they have been picked. This way  
17 they do not have to sit around during the voir dire  
18 process. As of now, we expect to be starting on  
19 Monday.

20 Counsel, there was some question with respect  
21 to subpoenaed records. I have had the opportunity to  
22 in camera inspect the records that have been subpoenaed  
23 into the court as of now.

24 Just so the record is clear, there was a --  
25 there were records to the real estate management

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1 company subpoenaed in by the People with respect to  
2 Elizabeth Gardens and that contains the defendant's W-2  
3 wage and tax information. There were records with  
4 respect to a workers' compensation case that took place  
5 back in 1991 that was subpoenaed in by the People.

6 Additionally, there were additional records  
7 also subpoenaed in by Mr. Chamberlain from Martin  
8 Barten, manager of Elizabeth Gardens, and this record  
9 contains correspondence and other documents with  
10 respect to Elizabeth Gardens and with respect to the  
11 defendant.

12 There were also records that came in called  
13 superintendent's duties and it seems to have work  
14 sheets that the superintendent would fill out on a  
15 weekly basis. It looks like what he was required to  
16 do, when certain things were done with respect to, I  
17 guess, the apartments in the complex.

18 Finally, there were records subpoenaed in by  
19 the People from the Nassau County Correctional Center.  
20 Within those records there is privileged information  
21 and I have told counsel in chambers and am now placing  
22 on the record with respect to the records, I found --  
23 first of all, these records are all subsequent to the  
24 date of incident --

25 MR. CHAMBERLAIN: Date of the incident was

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1 April 12th, 2000, Judge.

2 THE COURT: These records were records that  
3 were subsequent to that date. Furthermore, there's  
4 privileged information which has nothing to do with the  
5 notice that defense counsel has served upon the People  
6 with respect to introducing an expert with respect to  
7 orthopedic injuries that allegedly were sustained by  
8 the defendant.

9 Now, I will not permit anybody to look at,  
10 and I will not permit, with respect to the records  
11 that -- other than what I am about to place on the  
12 record.

13 Now there is what they call a Nassau County  
14 Sheriff's Department Division of Corrections medical  
15 intake chart and there were three questions in there  
16 that I find would be relevant with respect to this  
17 case, and based upon the notice that the defense  
18 counsel has served upon the People, and those questions  
19 were do you have any medical condition at this time,  
20 are you currently under the care of a doctor, and have  
21 you had a workers' compensation case with injury, and  
22 the response is either no or yes thereafter.

23 I will permit counsel to look at that. Other  
24 than that, the balance of the records, I will not  
25 permit counsel to look at.

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1 Counsel, I am prepared to go forward with the  
2 Sandoval hearing at this time. There are a couple of  
3 things I want to touch on with you.

4 During the voir dire, as you may or may not  
5 know, I use a questionnaire. I will permit you, for  
6 example, I will permit you to touch on the law with  
7 respect to certain -- to areas, but I do not want you  
8 to go into the definitions of the law and I don't want  
9 you to go beyond that. Leave that to me, please.

10 Now, we are about to start the Sandoval,  
11 unless there's something else counsel would like to  
12 bring to my attention.

13 MR. BIANCAVILLA: Nothing from the People.

14 THE COURT: Mr. Chamberlain?

15 MR. CHAMBERLAIN: Ready for the Sandoval.

16 THE COURT: Mr. Biancavilla, it's your  
17 obligation to go forward with a Sandavol hearing.

18 MR. BIANCAVILLA: Subject to the receipt of  
19 the additional documents which we have subpoenaed, the  
20 People have nothing for Sandoval.

21 THE COURT: There's no need to go forward at  
22 this point?

23 MR. BIANCAVILLA: Unless there's something in  
24 the additional documents that we received, Judge, the  
25 People have nothing at this point.

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1 THE COURT: Now, with respect to the witness  
2 list, that, I understand, will be provided at this  
3 point, Mr. Biancavilla?

4 MR. BIANCAVILLA: I would ask this be marked  
5 as Court's Exhibit I.

6 This list that's marked I, and I have served  
7 a copy on Mr. Chamberlain, contains the names of 46  
8 potential witnesses in this trial.

9 For the record, and as an officer of the  
10 court, I will represent to the Court that two of the  
11 witnesses contained on that witness list were the  
12 subject matter of a protective order issued by Judge  
13 Gerald S. Carter on the 27th day of July in the year  
14 2000, and that the People were directed to disclose  
15 those witnesses when we began the Sandoval hearing.  
16 Contained in this list of 46 witnesses are those two  
17 individuals that were subject to that protective order.

18 THE COURT: Mr. Chamberlain?

19 MR. CHAMBERLAIN: I think probably the proper  
20 word, unless he's going to tell us which they are,  
21 rather than contained in, is buried in.

22 My understanding, Judge, this sealed order  
23 that we found out about just last Thursday for the  
24 first time was issued by a walk-in judge because the  
25 afternoon of July 26, 2000, the judge who was handling

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1 the case was not available. I still have no idea of  
2 what that order said, what the basis for it was, why  
3 there was some emergency that it had to be done that  
4 day instead of the next morning.

5 I have no idea why the judge who was handling  
6 the case was not advised, but he wasn't, as he so  
7 advises. And I have no idea why another judge who was  
8 handling the case subsequently was given to believe  
9 that all requests had been complied with. I do have a  
10 transcript on that.

11 Judge, there have been discovery demands,  
12 stipulations, hearings, all concerning what witnesses  
13 the People have that they would be required to produce.  
14 That would include -- and there was discussion  
15 concerning a witness and motions concerning a witness  
16 who the People claim they were not entitled to advise  
17 about, although not by name, just that there was such a  
18 witness.

19 On Thursday, when this first came up,  
20 Judge Ort said you can, in effect, when the Sandoval  
21 hearing starts on Monday, that would have been  
22 yesterday, you can get that order open. The trial  
23 starts and you can do it then.

24 It didn't happen, partially because of Judge  
25 Ort recusing himself. Then he issued an order

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1 yesterday saying you are entitled to have it unsealed  
2 at the beginning of the Sandoval.

3 THE COURT: You said Judge Ort issued an  
4 order yesterday. Was that subsequent to his recusal?

5 MR. CHAMBERLAIN: It was actually before it.  
6 He said with respect to the -- we were asking for  
7 the -- I was asking specifically for the unsealing of  
8 this record.

9 What I was saying, Judge, was that you're  
10 still the judge in this case. Until it's transferred  
11 to another judge, you're the judge. You are the judge  
12 in the case.

13 In any event, whether he did or not, and he  
14 did, I'm not withdrawing that claim. He did, but  
15 whether he did or not, the argument was you'll get it  
16 once the trial starts.

17 The trial has started. I would like to know  
18 whether the witnesses that they are talking about are  
19 police officers. Your Honor, my defendant was in  
20 custody from May --

21 THE COURT: I would like to see a copy of  
22 Judge Carter's order.

23 MR. BIANCAVILLA: I will show it to you in  
24 camera. It's a sealed order.

25 MR. CHAMBERLAIN: It's not sealed any more.

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1 THE COURT: Just let me see it.

2 MR. BIANCAVILLA: Do you want to mark it as  
3 an exhibit?

4 THE COURT: Do we have it marked as a court  
5 record?

6 THE CLERK: May I see it?

7 MR. BIANCAVILLA: You wouldn't have it,  
8 Judge. It shouldn't be in there.

9 THE COURT: It shouldn't be.

10 Prior to Judge Carter's order, was there  
11 another order from another judge of collateral  
12 jurisdiction?

13 MR. BIANCAVILLA: With respect to these  
14 witnesses?

15 THE COURT: Yes.

16 MR. BIANCAVILLA: No.

17 MR. CHAMBERLAIN: I doubt Judge Carter ever  
18 intended that the judge in charge of the case not be  
19 advised of that order.

20 THE COURT: I can't answer that,  
21 Mr. Chamberlain. All I can tell you is that Judge  
22 Carter is a County Court judge, like myself, and a  
23 judge of collateral jurisdiction. I can't overrule him  
24 with respect to his order sealing certain information.

25 MR. CHAMBERLAIN: So you indicated in

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1 chambers, Judge, but I would still suggest that there's  
2 no good reason I know of that I haven't been able to  
3 see that. There's no reason I know of why Judge Carter  
4 should say this should be sealed and kept secret from  
5 the judge handling the case when orders are being  
6 issued and hearings are held to determine whether the  
7 defendant is in custody, whether the police officers  
8 are under the auspices of the police.

9 During the period of time this order was  
10 issued, he was in custody. If this is one of these  
11 jail house set ups where you try to get somebody in to  
12 talk to him to get him a deal, if that was arranged by  
13 the police, I have a right to know that and I have a  
14 right to know it before we go on with jury selection  
15 and I would like to have an opportunity to investigate  
16 it.

17 Even under Judge Carter's order, as I  
18 understand it -- I haven't seen it. I don't know what  
19 it's based on. I don't know whether it was in custody.  
20 I don't know if it was in jail or before he was  
21 arrested. I don't know what it's about, but I do know  
22 from what I have been told it could be unsealed once  
23 the case started.

24 THE COURT: First of all, this application is  
25 made pursuant to CPL 240.90(3) where it says, Where the

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1 interests of justice so require, the court may permit a  
2 party to a motion for an order of discovery or a  
3 protective order, or other affected person, to submit  
4 papers to testify ex parte in camera. Any such papers  
5 and transcript of such testimony shall be sealed, but  
6 shall constitute a part of the record on appeal.

7 That's what we have before us right now.

8 MR. CHAMBERLAIN: Judge, I have to  
9 respectfully disagree. That procedure you outlined is  
10 done rarely, but it is done. I understand the section.  
11 As a matter of fact, Judge Honorof did it earlier, as  
12 we discussed in chambers, with respect to two other  
13 witnesses who testified that the chief witness for the  
14 people is a drug pusher.

15 THE COURT: That may be, Mr. Chamberlain, but  
16 that has nothing to do the instant order at hand. My  
17 clerk has just handed me the original sealed order in  
18 an envelope. It's marked People versus Paul Scrimo  
19 with the indictment number. It says sealed order,  
20 Honorable Gerald Carter.

21 MR. BIANCAVILLA: Was that sealed order in  
22 the court file that Judge Ort had prior to the case  
23 being transferred to you?

24 THE COURT: I can't answer that but it's  
25 there now; is that correct?

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1 THE CLERK: Yes.

2 MR. BIANCAVILLA: I wanted to make that  
3 clear.

4 MR. CHAMBERLAIN: Judge Ort made it clear on  
5 the record he knew nothing about that order. What I am  
6 saying, Judge, the reason for the exercise of  
7 discretion, under 240, is where there's a good reason.  
8 That's done by the judge who knows the case who has a  
9 basis for that, not a walk-in judge who has been  
10 brought in some papers for the afternoon saying we need  
11 a sealing order.

12 THE COURT: I understand your argument,  
13 Mr. Chamberlain, but your argument is to the Appellate  
14 Division, not another judge of collateral jurisdiction.

15 MR. CHAMBERLAIN: Judge, that order, if I  
16 have heard it correctly, is unsealed by its own terms.  
17 It said until the opening of trial. Judge Ort says  
18 once Sandoval goes ahead. The trial has commenced.

19 THE COURT: It's not unsealed. The People  
20 are authorized to delay notice. At this point, they  
21 have now given you notice and they have complied.

22 MR. CHAMBERLAIN: They haven't give me notice  
23 of who the witnesses are, whether the defendant was in  
24 custody, under what circumstances that was taken.  
25 Really, they haven't given me notice. I still don't

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1 know. All I have is --

2 THE COURT: As you know, Mr. Chamberlain, we  
3 are governed by the Criminal Procedure Law that says,  
4 at certain junctures and certain times during a trial,  
5 you are entitled to certain information which is  
6 generally known as Rosario information.

7 Now, I am not about to go beyond what the  
8 Criminal Procedure Law says with respect to  
9 information.

10 Now, if you can, tell me why I should be  
11 directing the People to do anything other than what  
12 they have done now which is complied with -- all that's  
13 happened at this point is they delayed notice with  
14 respect to the notice of witnesses and now they have  
15 given you notice by what has been marked as Court  
16 Exhibit I.

17 MR. CHAMBERLAIN: Which I am not entitled to  
18 see.

19 THE COURT: Sure you are. You have the  
20 witness list.

21 MR. CHAMBERLAIN: They've got two names out  
22 of a list of whatever it is, 49 --

23 THE COURT: Forty-six.

24 MR. CHAMBERLAIN: Forty-six, and they won't  
25 tell me which two. I don't even know whether they are

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1 police witnesses or private -- or layman witnesses.

2 THE COURT: Mr. Biancavilla?

3 MR. BIANCAVILLA: Yes, Judge. With respect  
4 to the witnesses that we are talking about, first of  
5 all, the People are not required, other than certain  
6 police witnesses that have received statements from the  
7 defendant or identification witnesses, and we have  
8 provided Mr. Chamberlain with the notice regarding all  
9 of those witnesses, any other witnesses the People  
10 intend to call at a trial, we are under no obligation  
11 to provide defense counsel with those witnesses.

12 It is very clear in the Criminal Procedure  
13 Law. On the date set for trial, prior to jury  
14 selection, the People are required to provide a witness  
15 list for the Court so the Court can inquire of the  
16 jurors whether they know of any of the parties.

17 We have complied. We have followed the order  
18 of Judge Carter and disclosed within that witness list  
19 the two individuals that a protective order was issued  
20 to up until this point in time.

21 I will represent to the Court they are not  
22 police officers, nor are they subject to any other  
23 disclosure requirements of the Criminal Procedure Law.

24 THE COURT: Mr. Chamberlain, I know of no  
25 cases that require the People to do anything more at

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1 this juncture than what they have done, and they have  
2 provided you with a witness list which they are  
3 required to do at this juncture.

4 I can't give you any reasons as to why  
5 Judge Ort may not have known something or what he did  
6 know at what juncture. We are here today ready to try  
7 this case, and, as far as this Court is concerned,  
8 there's an order of a judge of collateral jurisdiction,  
9 Judge Gerald Carter, who has sealed certain  
10 information.

11 All it does now at this point is it directs,  
12 at the eve of trial, the Sandoval hearing, it can be  
13 disclosed. I can't overrule Judge Carter nor ask why  
14 something happened in any particular shape or form. As  
15 to how it happened, not relevant to the argument before  
16 the Court.

17 At this point the People have provided you  
18 with a witness list as required by the Criminal  
19 Procedure Law and rules of this Court.

20 Anything else?

21 MR. CHAMBERLAIN: Briefly, Judge. We did  
22 have a joint Wade/Huntley --

23 THE COURT: Yes. Yes.

24 MR. CHAMBERLAIN: The People offered a  
25 statement -- one, two statements taken from private

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1 individuals not in custody. My understanding was that  
2 was it. I think the Court's understanding was the  
3 same.

4 Again -- may I ask the Court, when will I be  
5 able to see the affidavit? I understood I would see it  
6 when the trial commenced which is now. When will I  
7 be --

8 THE COURT: Which affidavit?

9 MR. CHAMBERLAIN: The order -- excuse me.

10 MR. BIANCAVILLA: The affidavit contained  
11 there, we will turn that over as Rosario at the time  
12 that Rosario is required to be turned over.

13 THE COURT: Now, as you know,  
14 Mr. Chamberlain, just so the record is clear, the  
15 Huntley hearing was held pursuant to CPL 710.30.  
16 Whenever the People intend to offer at a trial, A,  
17 evidence of a statement made by defendant to a public  
18 servant, which statement if involuntarily made would  
19 render the evidence thereof suppressible upon motion  
20 of -- I'm only reading the relevant part.

21 MR. CHAMBERLAIN: I'm aware of the section,  
22 Judge.

23 THE COURT: Obviously, at this point, the  
24 People are telling us this was not made to a public  
25 servant.

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1 MR. CHAMBERLAIN: I'm guessing here. That's  
2 all I can do. What worries me is was this done by  
3 pre-arrangement or communication and a deal made  
4 between some other inmate trying to get a deal from the  
5 People. If it was done that way, I have a right to  
6 probe that. That's what I believe happened and it's  
7 being kept from me.

8 THE COURT: There's certain information you  
9 will receive pursuant to Rosario, Criminal Procedure  
10 Law 240.45.

11 Now, the People know what they have to  
12 provide you and they have to provide you a whole litany  
13 of information here. If you want additional time after  
14 direct examination, you can ask me if you want to have  
15 some time to do some research or whatever,  
16 Mr. Chamberlain.

17 MR. CHAMBERLAIN: I may need time to do  
18 investigation.

19 THE COURT: We'll see how it goes at the  
20 time. The People are required, and Mr. Biancavilla  
21 knows, pursuant to 240.45, he knows what he has to  
22 provide you and I'm sure he will do that.

23 Anything else?

24 MR. CHAMBERLAIN: Nothing further, Judge. I  
25 respectfully except.

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1 THE COURT: You have an exception.

2 Counsel, at this point, unless there's  
3 something further, we will adjourn to 9:30 tomorrow.

4 So the record is clear, the Court has  
5 returned to Mr. Biancavilla his copy of Judge Carter's  
6 order.

7 MR. BIANCAVILLA: Thank you, Judge.

8 THE COURT: Counsel, at this point we don't  
9 know which courtroom we are using, but I would suggest  
10 you come in first thing in the morning and I'm sure  
11 we'll know at that point.

12 MR. CHAMBERLAIN: Judge, can I ask one  
13 question? We had a report submitted as part of the  
14 discovery by the FBI with respect to a tool that was  
15 examined here. I do not, unless I mistake this list,  
16 see an FBI agent name on here.

17 MR. BIANCAVILLA: They are not agents that  
18 are involved.

19 MR. CHAMBERLAIN: Would you tell me who they  
20 are?

21 THE COURT: Twenty-two and 23.

22 MR. CHAMBERLAIN: I'm having trouble reading,  
23 Judge. Could I ask the district attorney, on this list  
24 of 46 witnesses, who will be called generally in the  
25 order listed.

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1 MR. BIANCAVILLA: I couldn't tell you. We  
2 are still interviewing witnesses.

3 THE COURT: At some point I will ask  
4 Mr. Biancavilla.

5 MR. BIANCAVILLA: I'll let you know day to  
6 day.

7 MR. CHAMBERLAIN: I am mainly interested in  
8 experts.

9 THE COURT: Once we have a jury, I will ask  
10 Mr. Biancavilla to do that.

11 MR. BIANCAVILLA: It's hard to set up the  
12 witnesses until we actually get a jury, Judge.

13 THE COURT: I understand.

14 Thank you, counsel.

15 See you tomorrow.

16 MR. BIANCAVILLA: Judge, I just wanted to  
17 make copies of those documents. Is that okay?

18 THE CLERK: Mr. Scrimo, your case is being  
19 adjourned to tomorrow. You must appear tomorrow. If  
20 you fail to appear, a warrant may be issued for your  
21 arrest and bail, if any, may be forfeited.

22 \* \* \*

23 (Whereupon, the trial in the above matter was  
24 recessed until May 1, 2002.)  
25

1 STATE OF NEW YORK : NASSAU COUNTY

2 SUPREME COURT PART XII

3 -----X

4 THE PEOPLE OF THE STATE OF NEW YORK

Ind. 1456-00

5 - against -

6 PAUL SCRIMO,

Jury Selection

7 Defendant

8 -----X

9 May 1, 2002  
10 262 Old Country Road  
11 Mineola, New York

12 B E F O R E :

13 HON. JEFFREY S. BROWN,  
14 County Court Judge

15 A P P E A R A N C E S:

16 HON. DENIS DILLON  
17 Nassau County District Attorney  
18 BY: ROBERT BIANCAVILLA, Esq., of Counsel,  
19 Assistant District Attorney  
20 For the People

21 JOHN CHAMBERLAIN, Esq.  
22 1001 Franklin Avenue  
23 Garden City, New York  
24 For the Defendant

25 KATHLEEN PLAIA  
OFFICIAL COURT REPORTER

1 THE CLERK: Come to order, please. This is  
2 indictment 1456N of 2000, People versus Paul Scrimo.  
3 Case on trial. All parties are present.

4 Are the People ready?

5 MR. BIANCAVILLA: Ready, your Honor.

6 THE CLERK: Defense ready?

7 MR. CHAMBERLAIN: Defendant ready, Judge.

8 THE COURT: Counsel, are we ready to bring in  
9 the prospective jury panel?

10 MR. CHAMBERLAIN: No, Judge. I have an  
11 application.

12 THE COURT: Yes, Mr. Chamberlain.

13 MR. CHAMBERLAIN: I'm not sure, Judge, that  
14 the application for a preconclusion of the two  
15 witnesses that were covering that sealing order was on  
16 the record or not. It was a lot of discussion about  
17 it. I know your Honor denied that.

18 THE COURT: I believe it was. But you can  
19 certainly place it on the record now if you'd like.

20 MR. CHAMBERLAIN: I would like to.

21 THE COURT: Absolutely.

22 MR. CHAMBERLAIN: Beyond that, Judge, with  
23 respect to jury selection, there is an issue concerning  
24 some witnesses we have.

25 THE COURT: Yes, sir.

1 MR. CHAMBERLAIN: That we may have, depending  
2 upon what the People put on.

3 THE COURT: Well, you understand that at this  
4 point you don't have to tell me whether you're going to  
5 be putting on a case or not. However, you realize, if  
6 there comes a point where one of your witnesses is  
7 known to one of the jurors, we can have a problem.

8 So, that's something you would have to take  
9 under advisement.

10 MR. BIANCAVILLA: Judge, I'm going to have an  
11 application with respect to specifically that, when  
12 Mr. Chamberlain is finished.

13 THE COURT: Okay.

14 MR. CHAMBERLAIN: Well, Judge, I have a list  
15 of witnesses that I could provide for voir dire of the  
16 jury, that does not include a number of witnesses who,  
17 if they are going to testify, they would be witnesses  
18 to testify before and possibly some others may be  
19 testifying to things that would amount to criminal  
20 acts, in that, they -- the testimony as I understand it  
21 before Judge Honorof, although I didn't hear it, was  
22 that they had purchased cocaine from a drug seller by  
23 the name of John -- they knew him as John Doe, but his  
24 name is John Kane and he's the People's chief witness  
25 in this case. And I'm concerned about possible

1           repercussions. And I don't want to lose those  
2           witnesses. That's the reason why I would like not to  
3           reveal their names at this time.

4                   THE COURT: Well, first of all, with respect  
5           to whether or not those witnesses you're going to put  
6           on, we would have to first see what Mr. Kane testifies  
7           to at the time east placed on the witness stand. Now,  
8           let me ask you this.

9                   MR. CHAMBERLAIN: That's correct, Judge.

10                   THE COURT: Are we going to need an attorney  
11           for Mr. Kane? I don't know what's pending, if  
12           anything.

13                   MR. BIANCAVILLA: No, Judge.

14                   MR. CHAMBERLAIN: Well --

15                   THE COURT: Yes, Mr. Chamberlain.

16                   MR. CHAMBERLAIN: There may be a question for  
17           Mr. Kane that comes up.

18                   THE COURT: I'm only concerned about a Fifth  
19           Amendment situation at this juncture. That's why I  
20           asked that question. I don't know if Mr. Kane has  
21           anything pending.

22                   MR. CHAMBERLAIN: There may be questions  
23           concerning criminal acts on his part that may require  
24           advise of counsel.

25                   MR. BIANCAVILLA: Judge, Mr. Kane is not

1 going to need the advise of counsel. We'll make that  
2 representation to the court. He will freely testify  
3 regarding any questions -- proper questions that are  
4 asked of him throughout the trial.

5 THE COURT: I'm not telling you how to put on  
6 your case, Mr. Chamberlain. But if Mr. Kane should  
7 deny that he committed a particular criminal act, then  
8 you may want to put on a witness with respect to that  
9 credibility issue.

10 MR. CHAMBERLAIN: That's correct, Judge.

11 THE COURT: But, at this point, from what  
12 Mr. Biancavilla has told us, he's going to freely  
13 testify.

14 MR. BIANCAVILLA: Absolutely.

15 THE COURT: I'm not sure whether we will  
16 reach that point. But, at this point I will take  
17 Mr. Biancavilla's representation as an officer of the  
18 court.

19 Anything else, sir?

20 MR. CHAMBERLAIN: With respect to those  
21 witnesses, Judge, there is already testimony that is  
22 sealed in this case. And I would respectfully request  
23 that those witnesses, that I not have to reveal the  
24 identity of those witnesses at this time. I don't  
25 think I do legally. And I really doubt with respect to

1       the issues your Honor is talking about, as far as  
2       possible -- one of the jurors knowing him. These  
3       people are, people themselves, are going to be  
4       reluctant witnesses because of the fact they're going  
5       to be testifying of drug transactions. And I doubt  
6       very seriously whether any of the prospective jurors  
7       would have anything to do with them.

8               THE COURT: We don't know, Mr. Chamberlain.  
9       That's the only reason I'm asking you at this point.  
10      As I said before, first of all, you may not even have  
11      to put these witnesses on. Or, if you do, there's --  
12      the only problem I could foresee at this juncture is  
13      that one of the jurors may know one of the witnesses.  
14      That's, I suppose, why we have alternates on juries.

15             MR. CHAMBERLAIN: All right, Judge.

16             THE COURT: But that's why I asked you if you  
17      can give me a list of the witnesses now. I would like  
18      to voir dire the ones, you know, you will call. You  
19      don't have to, as I said before, with you with the  
20      proviso there can be a problem if one of the jurors  
21      does know one of the witness.

22             MR. CHAMBERLAIN: Okay, Judge. I'll provide  
23      you with a list at this time.

24             THE COURT: Thank you, Mr. Chamberlain.

25             MR. CHAMBERLAIN: Thank you, Judge.

1 THE COURT: Anything further, Counsel?

2 MR. CHAMBERLAIN: One further thing, Judge.  
3 Part of the discovery demand concerned prior records  
4 concerning any witnesses that the People were going to  
5 produce. I believe there may have been some people on  
6 that witness list I got yesterday that has, that in --  
7 that will have prior records. I would be asking for  
8 that.

9 MR. BIANCAVILLA: Judge, the People will  
10 provide any type of criminal histories at the  
11 appropriate time, pursuant to the statute.

12 THE COURT: The Criminal Procedure Law  
13 addresses that very point -- and I'm sure  
14 Mr. Biancavilla knows that too -- that he has to  
15 provide it at that juncture.

16 MR. CHAMBERLAIN: Could I ask the district  
17 attorney when we are going to get the Rosario material?

18 MR. BIANCAVILLA: After the jury is sworn,  
19 before opening statements. Probably, Monday morning,  
20 Judge. We're in the process of compiling it now.

21 Again, as I stated yesterday, I came into  
22 this case three weeks ago, Judge. So, right now we're  
23 working on providing the material. If  
24 Mr. Chamberlain -- I'm hoping to have it completed by  
25 Sunday. If he would like to pick it up on Sunday, it

1 possibly could be completed on Sunday for him.

2 THE COURT: Let us know on Friday how you're  
3 doing.

4 MR. BIANCAVILLA: Yes, I'll let you know.

5 THE COURT: Ready to go?

6 MR. BIANCAVILLA: I have an application.

7 THE COURT: Yes, Mr. Biancavilla?

8 MR. BIANCAVILLA: There are a couple of  
9 things I want to address. We want to amend our witness  
10 list and add two further names.

11 THE COURT: Yes.

12 MR. BIANCAVILLA: John Williams.

13 THE COURT: Is he a police officer?

14 MR. BIANCAVILLA: No, civilian. And Robert  
15 White, also a civilian.

16 THE COURT: Okay.

17 MR. BIANCAVILLA: In addition, Judge, I  
18 received a letter from the Department of Veterans'  
19 Affairs Medical Center in Northport, New York. We had  
20 served a so ordered subpoena on that facility, signed  
21 by Judge Ort. And the letter was addressed to my  
22 office. And it basically stated that we did not  
23 receive an adequate authorization with your request and  
24 we are unable to release the information without the  
25 patient's specific consent. We have asked the patient

1 to supply the additional information we need to process  
2 the request. So, the court will not be receiving those  
3 documents until counsel has his client provide them  
4 with the proper consent.

5 I would ask that the Mr. Chamberlain be  
6 directed to do so, so we can get the discovery material  
7 regarding those medical records, or else, again, my  
8 application to precludes will be made at that time.

9 THE COURT: Mr. Chamberlain.

10 MR. CHAMBERLAIN: Judge, if Mr. Biancavilla  
11 will provide me with whatever consent he needs, I'll be  
12 happy to have my client sign it.

13 MR. BIANCAVILLA: Apparently it was mailed  
14 directly to Mr. Scrimo, Judge, according to the letter  
15 I got from the medical center.

16 MR. CHAMBERLAIN: Can I see that?

17 MR. BIANCAVILLA: Sure.

18 THE COURT: Mr. Chamberlain, if you would ask  
19 your client if he's received it. If he has not,  
20 perhaps they can facts another consent.

21 MR. BIANCAVILLA: Fine.

22 MR. CHAMBERLAIN: He says he hasn't, Judge.  
23 I note, the letter is dated April 29th.

24 MR. BIANCAVILLA: He may not have received it  
25 yet, Judge. I would ask, once it's received, that it

1 be immediately sent back to them so we can get those  
2 records.

3 MR. CHAMBERLAIN: As soon as it's received,  
4 we will have it sent back. It probably, hopefully,  
5 will be there in a day or two.

6 MR. BIANCAVILLA: Okay. I have one further  
7 application, Judge.

8 THE COURT: Yes?

9 MR. BIANCAVILLA: With respect to  
10 Mr. Chamberlain's list of witnesses, Judge, we ask all  
11 witnesses be revealed at this time.

12 As authority for that, Judge, I will cite to  
13 the Court, People of the State of New York versus Juan  
14 Cangiano. It's a Supreme Court, Criminal Term, Kings  
15 County case decided in 1986 that's been affirmed by the  
16 a Appellate Division under 156 AD2d, 575. And it was  
17 affirmed by at Appellate Division on December 18th,  
18 1989. Appeal to the Court of Appeals was denied.

19 And, basically, what this case states, Judge,  
20 that a defendant must furnish a list of prospective  
21 defense witnesses to the Court and the district  
22 attorney immediately prior to jury selection in order  
23 to determine whether any of the prospective jurors are  
24 related to or know a prospective witness, and thereby  
25 diminish the risk of a mistrial resulting from

1 relationship between sworn jurors and witnesses  
2 uncovered in the middle of trial. And no  
3 constitutional right of the defendant is violated by  
4 requiring him to furnish such list, since mere  
5 disclosure, witness names, immediately prior to jury  
6 selection cannot prejudice the defense, absent  
7 extraordinary circumstances.

8 I have one further case, Judge, in support of  
9 that proposition, which is cited within Cangiano, which  
10 is a Court of Appeals case, the People of the State of  
11 New York versus James L. Boyd. It's a Court of  
12 Appeals, decided May 12th 1981, 53 NY2d, 912.

13 THE COURT: Now, did the Appellate Division,  
14 when it affirmed the Criminal Court decision, did it  
15 write on it or just affirm?

16 MR. BIANCAVILLA: Just affirmed it, Judge.  
17 They cited too, People v. Boyd.

18 I have brought copies of both of those  
19 decisions for the Court.

20 Unless there is some compelling reason and  
21 some extraordinary circumstance relating to those two  
22 witnesses that were sealed, at this particular point in  
23 time, at this particular point in time, we would ask  
24 that the defendant be required to disclose their  
25 identity or be precluded from presenting their

1 testimony which is the remedy set forth by both the  
2 Court of Appeals and the lower court judge.

3 THE COURT: May I see those cases?

4 MR. BIANCAVILLA: Yes, absolutely. And I  
5 have brought copies for Mr. Chamberlain also.

6 THE COURT: Mr. Chamberlain, would you like  
7 to be heard?

8 MR. CHAMBERLAIN: I would like to take a look  
9 at the cases.

10 THE COURT: Certainly.

11 MR. CHAMBERLAIN: If I may.

12 THE COURT: Absolutely.

13 (Whereupon, there is a brief pause in the  
14 proceedings.)

15 THE COURT: Mr. Chamberlain.

16 MR. CHAMBERLAIN: Yes, Judge. Yes, your  
17 Honor. Boyd, as I read it, is a case involving an  
18 improper remark by the Court, indicating that a certain  
19 part of the list, a defendant's witness list, means the  
20 defendant doesn't have to testify and the Court said it  
21 was harmless error in view of the overwhelming guilt.

22 The other case talks about other ways of  
23 handling this, which would include a possibility at the  
24 end of the court, if, in fact, we put witnesses on,  
25 other than that are on the list, voir diring the jurors

1 at that point.

2 But, in this case, the Court, this particular  
3 Court said it preferred revelation of the witnesses at  
4 the inception, unless there was some good cause shown.

5 My understanding of the law, and it's  
6 longstanding, it's always been discretionary with the  
7 Court. I don't think there's any obligation on the  
8 part of the defense to present a witness list. But  
9 it's within the discretion of the court. The Court  
10 generally likes to have a list rendered at the  
11 inception.

12 Judge, I have a practical way out of this  
13 whole thing. I will reveal the names, provided I get a  
14 representation from the district attorney that these  
15 people will not be investigated and threatened with  
16 prosecution with respect to the crimes that they  
17 allegedly will testify, that I believe they will  
18 testify, which is possession, buying cocaine from the  
19 People's witness. And that's what -- Judge, that's why  
20 Judge Honorof -- the reason I gave you that transcript,  
21 you asked about why Judge Honorof sealed that. He  
22 sealed it for that specific reason. Because there  
23 was -- the witnesses we have are not everyday citizens.  
24 These were users. They were involved -- one of the  
25 people had to be -- actually had been in custody at the

1 time, and I never got to -- got to talk to that person  
2 before, I think briefly after coming out of Judge  
3 Honorof's chambers.

4 What I'm saying is, these people will easily  
5 be threatened off testifying here if they're -- if the  
6 DA goes out and says, we're going to charge you with  
7 crimes. Judge Honorof, I believe, said they would get  
8 immunity for that testimony. If I have that  
9 representation, or if they have this, or he represents  
10 he will not go and get these people and prosecute you  
11 for possession of coke for testifying truthfully in a  
12 murder case, then I have no problem revealing those  
13 names.

14 MR. BIANCAVILLA: Judge, can I just be heard  
15 for a second?

16 THE COURT: Yes.

17 MR. BIANCAVILLA: Unless the constitution of  
18 the state has changed, I don't think Judge Honorof has  
19 the authority to grant anyone immunity from  
20 prosecution, first of all.

21 Second of all, the People don't just blindly  
22 grant people immunity from prosecution. If these  
23 individuals choose to testify, we expect to be -- to  
24 fully cross-examine them regarding their testimony.

25 Obviously, if they intend to take the stand

1 and take the Fifth Amendment, that's an issue that we  
2 will deal with at that particular time.

3 Right now I'm just asking the Court to  
4 exercise its discretion, and clearly it's within the  
5 discretion of the trial court, to require the defendant  
6 to release the names of its potential witnesses at this  
7 particular time.

8 I don't see any circumstances. The District  
9 Attorney's Office does not go out and threaten  
10 witnesses not to testify. Clearly, as all these  
11 witnesses on this witness list will be interviewed by  
12 members of either my staff or the Nassau County Police  
13 Department. If they choose not to speak to us, they  
14 have an absolute right not to speak to us.

15 But my point is, that we have a right, if we  
16 wish, to try and attempt to contact these witnesses, to  
17 speak to them. And it will be up to them to decide  
18 whether or not they wish to speak to our investigators.

19 But Mr. Chamberlain has not set forth any  
20 extraordinary circumstances that require a protective  
21 order at this particular time for those two witnesses  
22 or any other witness that he anticipates to call.  
23 Because, as he said, this is just a list of some of the  
24 people he intends to call.

25 We would ask that the Court to require him to

1 produce all the witnesses he intends to call. And we  
2 have given the Court -- again, discretionary -- but we  
3 have given the Court, Court of Appeals support for  
4 exercising that discretion, together with a lower court  
5 decision which has been affirmed by the Appellate  
6 Division.

7 THE COURT: Based upon what you told me,  
8 Mr. Chamberlain, I see another problem that's going to  
9 come up.

10 I think I might have to have counsel for  
11 these witnesses if you do put them on the stand. I  
12 would -- that's another problem we will have to address  
13 later.

14 However, I would prefer that you divulge them  
15 at this point, just to prevent any problem we may have  
16 with respect to somebody knowing one of these  
17 witnesses.

18 You know, I understand what you're telling  
19 me. However, now, it would be a shame to be going  
20 through this trial and find out that somebody knows  
21 these witnesses and then we end up with a mistrial.

22 MR. CHAMBERLAIN: Judge, I think there are  
23 two things. As I have already indicated, I think the  
24 possibility of that is extremely limited based upon the  
25 nature of the witnesses. And there may or may not be a

1 witness who is on probation or has pending matters. I  
2 don't really know.

3 But, the power of this District Attorney's  
4 Office and the police department is immense, to go send  
5 investigators out. I have a list of forty-nine  
6 witnesses, I guess it is now, forty-eight, whatever it  
7 is. Many of whom who I have never heard of before.  
8 And I don't even know what they're going to testify to.  
9 He knows because from the outset of this case the  
10 nature of this testimony was revealed to the People.  
11 And the only issue is whether or not they have a right  
12 to interview them previous to their testifying here.  
13 And that's the problem. That's what I consider to be  
14 the problem here, Judge.

15 Judge Honorof did indicate, if I recall  
16 correctly, on the record that they would be granted  
17 immunity for that testimony. I think that's in the  
18 record there. Your Honor has that transcript.

19 THE COURT: Well, whether it's on the record  
20 or not, usually it's the District Attorney's Office who  
21 is the one who grants immunity.

22 MR. CHAMBERLAIN: Well, it may usually be,  
23 Judge. I think -- I disagree with the district  
24 attorney that the Court -- I think the Court can, in an  
25 in-camera protective order situation or the situation

1 we're talking about here, offer immunity to witnesses  
2 for truthful testimony. Obviously, it has to be  
3 truthful testimony. But I think they can.

4 THE COURT: Mr. Chamberlain, that's not my  
5 recollection of the law. However, you know, a judge  
6 certainly has a right to seal the record, which he has  
7 done. And he has -- these names are not available to  
8 anyone at this point. And that may be. All I'm saying  
9 to you at this point, and you understand the problems  
10 that are academic with respect to not providing these  
11 name to me at this point.

12 I understand you do not have to put on a  
13 case. It's the People's burden to go forward and prove  
14 these allegation in the indictment beyond a reasonable  
15 doubt. You do not have to do anything.

16 You know, if you don't want to give me the  
17 names, I'm not going to compel you to do that.  
18 However, it can be a problem in the future, if it turns  
19 out that one of the witnesses or one of the witnesses  
20 is known to one or more jurors of the jurors. I don't  
21 know. I don't know how many witnesses we're talking.  
22 You keep saying there's no reason why these people  
23 should know each other. You don't know what their life  
24 experience may be with respect to the potential juror  
25 or jurors. They may know these people. I don't know

1           that.

2                       At this point I would prefer it, but as I  
3           said before, if we have -- we will have alternates.  
4           And maybe we should have a couple of extra alternates  
5           as a result of that.

6                       MR. CHAMBERLAIN: Could I defer in response  
7           then until after lunch? I would like to talk to my  
8           client and then I can bring in the other list I  
9           suppose.

10                      THE COURT: You certainly can. I'm not sure  
11           how far I'm going to get anyway. So, what I'm going to  
12           suggest is, what I will do is, I will defer the  
13           question of the potential jurors with respect to the  
14           potential witnesses that may be called until a later  
15           point in my voir dire, so this way we will give you an  
16           opportunity to talk to your client over lunch.

17                      MR. CHAMBERLAIN: All right.

18                      THE COURT: Ready for the jury? Please bring  
19           them in.

20                      MR. BIANCAVILLA: Yes, Judge.

21                      MR. CHAMBERLAIN: Yes, Judge.

22                      THE COURT OFFICER: Jury entering.

23                      (Whereupon, a panel of prospective jurors  
24           enters the courtroom to commence the voir dire  
25           examination concerning their qualifications to sit as

1 sworn jurors on the case in chief)

2 THE COURT: Good afternoon, ladies and  
3 gentlemen. My name is Jeffrey Brown. I'm a County  
4 Court Judge. I'll be the judge presiding over this  
5 case.

6 At this point, now that you have all made  
7 yourselves comfortable, I would ask you to please stand  
8 so the Clerk will swear you in.

9 (Whereupon, the panel of prospective jurors  
10 are duly sworn by the Clerk of the Court.)

11 THE CLERK: You may be seated.

12 THE CLERK: Jurors, can I have your  
13 attention, please. If you hear your name called,  
14 please gather all your personal belongings, step up and  
15 follow the instructions of the court officers.

16 Please, at this time, separate your  
17 questionnaires and hand them to the court officer when  
18 you step up.

19 (Whereupon, fourteen prospective jurors are  
20 seated in the jury box to commence the voir dire  
21 examination regarding their qualifications to sit as  
22 sworn jurors on the case in chief.)

23 THE COURT: Again, ladies and gentlemen, good  
24 afternoon. At this time I intend to make a brief  
25 statement to all of you and to ask you certain

1 questions. And I want you to know, I'm directing my  
2 remarks to all the prospective jurors, those in the  
3 jury box and those of you on the other side of the  
4 rail. Please pay close attention to all the questions  
5 I ask, particularly the general questions which I  
6 direct to the body as a whole. The reason for this is,  
7 if you who are outside the rail are called to sit in  
8 the jury box, I will be asking you in summary fashion  
9 whether your answers to general questions will be yes  
10 or no. So, if any of you have any difficulty hearing  
11 the questions put to these jurors, please make it known  
12 and I will repeat myself.

13 The purpose of my inquiries is to obtain  
14 twelve citizens to sit as fair and impartial jurors at  
15 this trial.

16 Now, this case involves the trial of criminal  
17 charges brought by the People of the State of New York  
18 against the defendant, Paul Scrimo.

19 Now, the defendant is represented by John  
20 Chamberlain.

21 Mr. Chamberlain.

22 MR. CHAMBERLAIN: Your Honor, ladies and  
23 gentlemen.

24 THE COURT: And the district attorney who  
25 represents the People of the State of New York is

1 represented by Robert Biancavilla.

2 Mr. Biancavilla.

3 MR. BIANCAVILLA: Your Honor, ladies and  
4 gentlemen. Good afternoon.

5 THE COURT: Now, the charges against the  
6 defendant are contained in an indictment which alleges  
7 the defendant committed certain criminal acts. There  
8 are two counts to this indictment, each one of them is  
9 for murder in the second degree. One is an intentional  
10 murder, one is a depraved indifference murder.

11 Now, these alleged events occurred -- alleged  
12 events occurred on April 12th, 2000, in Farmingdale,  
13 County of Nassau.

14 Now, as jurors, you are going to be called  
15 upon to determine whether or not the evidence which you  
16 shall hear and see in this case establishes the  
17 defendant's guilt of these charges. In order to do  
18 this you will have to evaluate all the evidence at the  
19 end of the trial to determine whether what you have  
20 heard from the witnesses and see as exhibits prove the  
21 charges beyond a reasonable doubt. This is called  
22 finding the facts. That will be your function alone.  
23 And I will find no facts in this trial.

24 Now, at this point I want to also tell you  
25 that this jury will not be sequestered. This means

1       that you will go home each and every evening, as well  
2       as during your deliberations. However, there is always  
3       a possibility at some later point that the jury can  
4       become sequestered if something should arise that  
5       causes sequestration. However, I want you to know at  
6       this point that this jury will not be sequestered.

7               Now, your ultimate decision is called a  
8       verdict. Your verdict as to each charge will either be  
9       guilty or not guilty. Evidence will be presented  
10      usually by calling witnesses and the attorneys may  
11      suggest that you draw certain conclusions from the  
12      evidence. But only you can decide what the evidence  
13      proves. And the verdict as to each of the counts  
14      remains your decision alone.

15             As Judge I will make no determination of  
16      guilt or lack of guilt. Now, my role at trial is to  
17      insure that you each reach your verdict in accordance  
18      with the law. And I will explain that to you as to  
19      what the law is as to all the issues in this trial.

20             In order that the People and the defendant  
21      receive a fair trial, I will have to rule on objections  
22      during the course of the trial. Those rulings will  
23      have nothing to do with whether the defendant is guilty  
24      or not guilty. I may rule on evidence that you may  
25      consider and for what purpose. When I make a ruling,

1 if you are to see an exhibit offered as evidence, I  
2 will be ruling on whether or not you are permitted to  
3 see or hear it as a matter of law. Likewise, if you  
4 are instructed to disregard something you have heard, I  
5 will do so because that is the law. None of my rulings  
6 should be taken by you as any indication at all whether  
7 you should believe all or part of what is offered as  
8 evidence or that the defendant is guilty or not guilty.  
9 That is solely your job to determine.

10 But you must accept the law as I give it to  
11 you if the defendant and the People are to have a fair  
12 trial to which they are entitled to.

13 Now, the indictment is merely a way by which  
14 the State of New York brings into court individuals it  
15 claims to have violated the law. It's not any evidence  
16 whatsoever of the guilt of the defendant. Indeed, the  
17 defendant, Paul Scrimo, is presumed to be innocent.  
18 His presumption of innocence continues throughout the  
19 trial, unless and until the jury, having considered all  
20 of the evidence, shall find the defendant is guilty  
21 beyond a reasonable doubt of the charges made against  
22 him.

23 Now, at the conclusion of the trial it's my  
24 province as the judge to instruct the jury as to the  
25 law which is applicable to this case, and the jury is

1 bound to follow my instructions on the law. The jury  
2 is the exclusive judges of the facts. And it alone  
3 determines whether the People have proven the charges  
4 with respect to the defendant beyond a reasonable  
5 doubt.

6 Now, in connection with the selection of the  
7 jury, counsel for the respective parties has a right to  
8 challenge prospective jurors for cause. That is,  
9 either counsel may be of the opinion that a particular  
10 prospective juror is not qualified or is disqualified  
11 from service here because of some fact which affects  
12 his or her impartiality as a trial juror.

13 In addition, counsel for the respective  
14 parties have an absolute right to excuse a number of  
15 jurors for arbitrary reason, without assigning any  
16 grounds. That is called a peremptory challenge.

17 Should you be discharged, you're not to  
18 consider that as reflection on your integrity, capacity  
19 to serve as a juror.

20 Needless to say, prospective jurors may be  
21 excused for a variety of reasons. Do not be  
22 embarrassed or concerned about such challenges. In a  
23 majority of instances you may often discover that you  
24 would all agree that a juror should be excused, for  
25 that matter, that you, yourself, should be excused from

1 service on a trial jury for valid reasons.

2 In any event, enter into the voir dire with  
3 an open mind. I am confidence that you will answer all  
4 questions truthfully and in good spirit, knowing full  
5 well that all of us, Court, jury and counsel, are  
6 solely concerned about choosing from your number twelve  
7 jurors who will be willing to serve as a fair and  
8 impartial jury.

9 I now caution and admonish you, at any time  
10 when the court is in recess, you are not to discuss  
11 this case or any subject connected with this trial  
12 among yourselves. This simply means, you're not to  
13 discuss this case with your fellow jurors, or, for that  
14 matter, with anyone; nor are you to permit others to  
15 discuss it with you or in your presence. If anyone  
16 tries to discuss this case or any subject connected  
17 with the trial with you, despite the fact you tell them  
18 not to do so, then report that fact to the Court as  
19 soon as possible. If it becomes necessary for you to  
20 report such an incident to the Court, let me further  
21 caution you, you are to discuss such incident with your  
22 fellow jurors, but report the same only to the Court  
23 and do so as quickly as possible.

24 I also charge and admonish you, under no  
25 circumstances are you to read anything about this case

1 in any newspaper, magazine. Nor are you to listen to  
2 or view any television or radio concerning this case,  
3 that includes accessing information on the Internet.

4 It the event you're selected to serve as a  
5 juror, during the course of the trial you may see the  
6 attorneys in and around the area of the court house and  
7 they do not acknowledge you or exchange greetings with  
8 you is, it is not that they do not recognize you. By  
9 law they are following the Court's direction to have no  
10 contact with you.

11 Under no circumstances are you to view the  
12 scene of the alleged -- or, view what you believe to be  
13 the scene of the alleged crime.

14 Finally, you're not to form in the privacy of  
15 your own mind or express any opinion as to the guilt or  
16 innocence of the defendant until such time I submit  
17 this case to you for your deliberations.

18 The reason for these admonitions should be  
19 readily apparent. Should you decide -- as a trial jury  
20 you should decide the case solely on the evidence that  
21 you will see and hear during the trial. Obviously, it  
22 would not be fair to make your decision on the basis of  
23 something you read or heard or something someone said  
24 outside of this courtroom. So, abide by these  
25 admonitions.

1           If you're sworn to serve as a juror, you'll  
2           be able to decide all the issues with a free and  
3           unfettered mind. Prior to discharge, you may not  
4           request accept, agree to accept or discuss with any  
5           person receiving or accepting any payment or benefit in  
6           consideration for supplying any information concerning  
7           this trial.

8           Additionally, for your information, we expect  
9           the trial will take approximately two weeks after the  
10          conclusion of the selection of the jury. Now, we  
11          expect to be picking the jury this week and we hope to  
12          be starting Monday morning.

13          Now, ladies and gentlemen, at this time I'm  
14          going to be breaking for lunch with you. Now, I want  
15          those of you in the box to remember exactly where  
16          you're sitting. I ask you, when the court officer lets  
17          you back in, to take the same seat again. Those in the  
18          back take any seat.

19          What I want to do is admonish you, which I  
20          will do each and every time we break. During the  
21          recess, do not discuss the case among yourselves or  
22          with anyone else. Keep an open mind. Do not form or  
23          express any opinions until the entire case has been  
24          completed. Do not read or listen to any accounts of  
25          the case, should it be reported in the media. Do not

1 visit or view any premises mentioned. Finally, do not  
2 permit any party to discuss this case or an attempt to  
3 influence you. You must promptly report to the Court  
4 any violation thereof.

5 Finally, do not visit any other courtroom in  
6 this building or any other building.

7 Have a very nice lunch. I will ask you all  
8 to be back here a little before two o'clock so I can  
9 start as close to two o'clock as possible. The court  
10 officers will tell you directly where to report.

11 (Whereupon, the panel of prospective jurors  
12 leave the courtroom)

13 THE COURT: Counsel, we'll see you at two  
14 o'clock.

15 MR. BIANCAVILLA: Thank you, Judge.

16 (Whereupon, court stands in recess for lunch.  
17 The trial is adjourned until 2:00 p.m.)

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1                   A F T E R N O O N                   S E S S I O N

2                   THE CLERK: Continued case on trial, Paul  
3 Scrimo.

4                   Prosecutor, defendant and defense attorney  
5 are present, along with his able assistant.

6                   MR. CHAMBERLAIN: For the record, my partner,  
7 Eileen Chamberlain, may be in for jury selection. She  
8 may be in and out.

9                   THE COURT: Of course, Mr. Chamberlain.

10                  Mr. Chamberlain, you have provided myself and  
11 the assistant district attorney with an amended witness  
12 list, is that correct?

13                  MR. CHAMBERLAIN: That's correct, Judge, with  
14 some additional names.

15                  THE COURT: Are we ready to proceed, Counsel?

16                  MR. BIANCAVILLA: People are ready.

17                  MR. CHAMBERLAIN: Defendant ready.

18                  THE COURT: Okay. Let's bring in the jury,  
19 please.

20                  THE COURT OFFICER: Jury entering.

21                  (Whereupon, the panel of prospective jurors  
22 enter the courtroom. The fourteen prospective jurors  
23 resume their seats in the jury box to continue their  
24 dire examination regarding their qualifications to sit  
25 as sworn jurors on the case in chief.)

1 THE CLERK: Case on trial continued. All  
2 parties are now present.

3 Counsel stipulate, all the prospective jurors  
4 are present and seated in the proper order?

5 Mr. Biancavilla?

6 MR. BIANCAVILLA: Yes.

7 THE CLERK: Mr. Chamberlain?

8 MR. CHAMBERLAIN: Defendant ready.

9 THE CLERK: Okay. Thank you.

10 THE COURT: Good afternoon, ladies and  
11 gentlemen. We're ready to continue with the voir dire  
12 process. We now turn to the actual proceeding --  
13 procedure, I should say, of choosing the trial jury.

14 Although my questions will be, again,  
15 directed to the prospective jurors seated in the jury  
16 box, again, I ask all of our remaining prospective  
17 jurors who are seated in the courtroom to please pay  
18 close to attention to questions so all of you will  
19 become familiar with the function and responsibilities  
20 of trial jurors.

21 My first series of questions will concern  
22 matters of general information. These questions will  
23 touch upon the broad qualifications of trial jurors.  
24 The questions which I ask and those that counsel will  
25 subsequently ask are in no way intended to embarrass

1 anyone or delve deeply into your private lives.  
2 Basically, these questions can be answered with a yes  
3 or no. For that reason, I will put these general  
4 questions to all the prospective jurors seated in the  
5 jury box. If any of you wish to respond positively  
6 with either a yes or maybe, just raise your hand. If  
7 you do not understand the question, say so. If you do  
8 not raise your hand, I will assume your answer is no.

9 Now, the district attorney and the defense  
10 attorney -- and the defendant have been introduced to  
11 you. Do any of you know any of these people?

12 No.

13 Are any of you acquainted with Denis Dillon,  
14 the District Attorney of Nassau County, or any members  
15 of his staff or anyone that works in the District  
16 Attorney's Office?

17 Yes, sir.

18 PROSPECTIVE JUROR: At one time I worked in  
19 the courts for twenty-seven years.

20 THE COURT: In what capacity?

21 PROSPECTIVE JUROR: I started out as a court  
22 officer and graduated to associate court clerk.

23 THE COURT: Which court?

24 PROSPECTIVE JUROR: Manhattan, Queens and  
25 Brooklyn.

1 THE COURT: Okay. Anybody else? Do any of  
2 you personally know the law associate or defendant's  
3 attorney or anyone who works with him?

4 Is there anyone in the jury box at the  
5 present time that has any business pending in the  
6 district attorney's office or the police department or  
7 some other law enforcement agency?

8 Does anyone in the jury box or anyone close  
9 to you work for a lawyer or group principally concerned  
10 with the law either as a paid employee or a volunteer?

11 All right. Let's start -- there's quite a  
12 few of you. Let's start with you.

13 PROSPECTIVE JUROR: My son-in-law is with the  
14 Appellate Term.

15 THE COURT: I'm asking if anybody worked for  
16 a lawyer at this time. I will individually question  
17 you with respect to that.

18 PROSPECTIVE JUROR: I work for a law firm.

19 THE COURT: Okay what type of firm is that?

20 PROSPECTIVE JUROR: Accident, car accident,  
21 insurance.

22 THE COURT: You do civil work?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: In what capacity do you work  
25 there?

1 PROSPECTIVE JUROR: I get the arbitrations  
2 and summonses ready for the court. I prepare it in the  
3 files.

4 THE COURT: Anybody else?

5 PROSPECTIVE JUROR: I'm an attorney. I have  
6 a general practice. I have an associate practice here  
7 in the county court.

8 THE COURT: Thank you, sir.

9 Anybody else?

10 Okay. Now, I have to ask this question. Is  
11 everyone now seated in the jury box at least eighteen  
12 years of age?

13 Are you all residents of Nassau County and  
14 citizens of the United States?

15 Now, have any of you ever had a dispute with  
16 a police officer or other law enforcement officer?

17 Now, the attorneys advised me among the  
18 following people may be called as witnesses in this  
19 case. I will read the list to you now:

20 Doctor Michael DeMartino; Doctor Gerard  
21 Catanese; Doctor Thomas Manning; Doctor Arlene Colon.  
22 Each one of them are employed by the Nassau County  
23 Medical Examiner. Detective Jack McHugh; Detective  
24 Brian Parpan; Detective Scott Kovar; Detective Vito  
25 Shiraldi; Detective Kevin McCarthy; Detective James

1 Cereghino; Detective Dennis Downes; Detective Jerl  
2 Mullen; Detective Warren Zimmerman; Detective Robert  
3 Dempsey; Detective Charles Costello; Detective Ron  
4 Brusseau; Police Officer Pamela Stark; Police Officer  
5 Raymond Wadsworth; Sergeant Michael Cole and Detective  
6 Sergeant Neil Delargi. Each one of those are members  
7 of the Nassau County Police Department. Megan Clement,  
8 who is employed by the Laboratory Corporation of  
9 America. Bruce Budowle and Carlo Rosati are employed  
10 by the Federal Bureau of Investigation.

11 MR. CHAMBERLAIN: Your Honor, may we approach  
12 for one minute?

13 THE COURT: Yes.

14 MR. CHAMBERLAIN: Sorry to interrupt.

15 THE COURT: Counsel, Mr. Biancavilla.

16 (Whereupon, there is a discussion held at the  
17 Bench, off the record, between the Court and Counsel.)

18 THE COURT: Gerry Connell; Martin Barten;  
19 John Williams; Lisa Lawson; John Kane, Francine Quinn,  
20 Thomas Hardman; Bill DeLuso; Thomas Armour; Bill Nimo;  
21 Robert Gunther; Penny Shouse; Mohammed Hussain; Pat  
22 Buffalino; Sven Brost; Carolyn Daly; John Williams;  
23 Robert White; Ross O'Boyle; Adam Stiglie; Frank  
24 DeFalco; Melissa Notarnicola; Doug Leung; Ceron Smith;  
25 Jennifer DeRenzis; Nicholas Patracco; Ellen Scrimo; Dee

1 Reed; Jay Hardman; Ed Morrison; Sue Bicollo; Teman  
2 Chello; Lee Barrow; Bob Hallaner; Linda Russo.  
3 Christian Kittelstaff; Charles Ross; Keith Wilson; S.  
4 Domokofsky; Doctor Howard Baum of New York City Office  
5 of Medical Examiner; Doctor Phillip Gaffey; Mark Hecht;  
6 Michael Callers and Charles Ball.

7 Is there anyone here who knows any one of  
8 these people?

9 Now, is anyone a parent or guardian of a  
10 person who resides in the same household with a child  
11 or children under sixteen whose principle  
12 responsibility is to actually and personally engage in  
13 the daily care and supervision of that child?

14 Now, does anyone in the jury box know  
15 anything about this case? Has anyone talked to you  
16 about this case? Has anyone read anything about this  
17 case in newspapers, magazines or other publications, or  
18 heard anything about this case from radio or television  
19 programs?

20 Now, you as you previously just heard my  
21 order and admonitions, you're not to speak about this  
22 case among yourselves. You're not to permit anyone to  
23 speak to you about it. You're not to read any  
24 newspapers, listen to any radio programs or television  
25 news programs concerning this trial. Will each of you

1           promise me you will faithfully obey those admonitions  
2           if you are chosen to serve as a trial juror?

3                       Now, any of you have any opinion as to the  
4           guilt or innocence of this defendant; as to any of the  
5           charges contained in this indictment?

6                       Now, ladies and gentlemen, my next series of  
7           questions are specifically directed to your functions  
8           and responsibilities should you be chosen to serve as  
9           trial jurors. In this regard my questions will  
10          certainly concern your willingness to follow my  
11          instructions and the law. Of course, in order to be a  
12          juror in this case you do not have to know anything  
13          about the law. That's my function to explain the law  
14          to you. It's your function to determine the facts from  
15          all the evidence and apply the law to those facts and  
16          thereby render a fair and just verdict. If you're  
17          selected as a trial juror, I will explain the law in  
18          detail to you at the end of the case. But as you can  
19          appreciate, it is important to know at this stage that  
20          you will apply and follow the law as I give it to you.  
21          I will, therefore, describe some of the fundamental  
22          principles of law so that you will be ready, willing  
23          and able to apply these laws in arriving at your  
24          ultimate verdict.

25                      For example, it's our law that an indictment

1 is not evidence. The mere fact that the defendant has  
2 been indicted is not evidence of anything. In  
3 particular, it's not evidence of the defendant's guilt.  
4 Should you be chosen to serve as a trial juror, the law  
5 requires that you decide the case wholly and solely  
6 upon all the evidence or lack of evidence.

7 Therefore, since it's our rule of law that  
8 the indictment is evidence of nothing, I will now ask,  
9 will each of you promise me that you will follow that  
10 rule of law?

11 Ladies and gentlemen, it's our law that your  
12 final verdict, your verdict must be unanimous. Twelve  
13 jurors seldom agree immediately, therefore, at the end  
14 of the trial you will be called upon to deliberate  
15 together. Can everyone on the trial promise me at the  
16 time your deliberations commences you will each  
17 participate in those deliberations, express your own  
18 views, reason together with your fellow jurors in order  
19 to arrive at your final verdict?

20 In other words, will you promise the  
21 defendant and the People that you are willing to  
22 participate in these deliberations, express your views  
23 based on all the evidence in the case, keep an open  
24 mind, listen to the views of your fellow jurors and  
25 reason together until you arrive at your unanimous,

1 final verdict?

2 Now, under our law every person accused of a  
3 crime, is brought to trial, is presumed innocent unless  
4 or until he's proven guilty beyond a reasonable doubt.  
5 The defendant here is presumed innocent. Put another  
6 way, the defendant is never required to prove his or  
7 her innocence. On the contrary, the People, having  
8 accused the defendant of the crimes charged, have the  
9 burden of proving the defendant guilty beyond a  
10 reasonable doubt.

11 Further, this burden of proof never shifts.  
12 It remains on the People and the presumption of  
13 innocence remains with the defendant throughout the  
14 trial.

15 Is there anyone among you who cannot now in  
16 his or her own mind grant to this defendant this  
17 presumption of innocence?

18 Will you promise me you will apply this  
19 presumption of innocence throughout the trial and that  
20 you will wait until you have heard all the evidence and  
21 retire to your final deliberations before you decide  
22 upon your final verdict? Stated otherwise, will you  
23 promise me you will apply the presumption of innocence  
24 unless and until you are convinced of the defendant's  
25 guilt beyond a reasonable doubt?

1                   Now, before rendering its verdict, the jury  
2                   must hear all the evidence. This is another way of  
3                   saying that the jury must be patient, listen to the  
4                   evidence, and wait until they have heard all of the  
5                   evidence before rendering their final verdict. Will  
6                   you promise me that you will be patient and wait until  
7                   you have heard all of the evidence, wait until you have  
8                   heard the summations of counsel and my final  
9                   instructions to you, wait until you deliberate in the  
10                  jury room before rendering your verdict?

11                  Now, in a criminal case the burden of proof  
12                  is entirely on the People and remains on the People  
13                  throughout the trial. The defendant is not required to  
14                  prove anything, nor is the defendant required to  
15                  disprove anything. Again, the entire burden of proof  
16                  is on the People and remains on the People throughout  
17                  the trial.

18                  Is there any one here who will have  
19                  difficulty in following that rule of law? Will you  
20                  promise me you will follow that rule of law?

21                  Now, since in a criminal case a defendant  
22                  need not prove anything, there is no requirement that a  
23                  defendant testify on his or her own behalf. If Paul  
24                  Scrimo does not testify, that fact is not a factor from  
25                  which any inference unfavorable to the defendant may be

1 drawn. Does anyone have any difficulty following that  
2 rule of law?

3 Now, the standard of proof required for -- by  
4 law for conviction, every criminal case is proof of  
5 guilt beyond a reasonable doubt. That standard  
6 however, does not require the People to prove the  
7 defendant's guilt beyond all possibility of a doubt or  
8 beyond a shadow of a doubt. It requires the People to  
9 establish the defendant's guilt beyond a reasonable  
10 doubt.

11 Our law, therefore, requires that before this  
12 jury may convict the defendant, each of you must be  
13 satisfied that the credible evidence convinces you  
14 beyond a reasonable doubt that the defendant is in fact  
15 guilty. The evidence must establish to you beyond a  
16 reasonable doubt that the defendant is in fact the  
17 person who committed the crime charged.

18 The evidence must also establish beyond a  
19 reasonable doubt each and every essential element of  
20 the crimes charged, which I shall later define such  
21 elements to you.

22 Now, what does the law mean when it requires  
23 proof of guilt beyond a reasonable doubt? In other  
24 words, when is a doubt of guilt a reasonable doubt?  
25 Under our law, a doubt of a defendant's guilt to be a

1 reasonable doubt must be a doubt for which some reason  
2 can be given. A doubt to be reasonable must,  
3 therefore, arise because of the nature and quality of  
4 the evidence in the case or from the lack or  
5 insufficiency of the evidence in the case. The doubt  
6 to be a reasonable doubt should be one which a  
7 reasonable person acting in a matter of this importance  
8 will be likely to entertain because of the evidence or  
9 because of the lack or insufficiency of the evidence in  
10 the case.

11 Now, a doubt of guilt is not reasonable if  
12 instead of being based on the nature and quality of the  
13 evidence or lack of the evidence, it's based on some  
14 guess or whim or speculation unrelated to the evidence  
15 in the case. Also a doubt of guilt is not a reasonable  
16 doubt if it's based merely on sympathy for the  
17 defendant or from a mere desire by a juror to avoid a  
18 disagreeable duty.

19 I, therefore, repeat, a doubt of the  
20 defendant's guilt to be a reasonable doubt must arise  
21 either from the nature and quality of the evidence in  
22 the case, or from the lack or insufficiency of the  
23 evidence in the case.

24 Therefore, the first duty of each juror is to  
25 consider and weigh all the evidence in the case and

1       decide what evidence you believe is credible and worthy  
2       of your consideration.

3               The next duty of each juror is to determine  
4       whether the case has been proved beyond a reasonable  
5       doubt of the defendant's guilt as that term is defined  
6       in our law.

7               A reasonable doubt, our law says, is an  
8       actual doubt, one which you are conscious of having in  
9       your mind after you have considered all the evidence in  
10      the case. If after doing, so you then feel uncertain  
11      and not fully convinced of the defendant's guilt, and  
12      you are also satisfied that in entertaining such a  
13      doubt you are acting as a reasonable person should act  
14      in a matter of this importance, then that is a  
15      reasonable doubt, to which the defendant is entitled to  
16      the benefit.

17              I repeat, it's the duty of each juror to  
18      carefully view, weigh and consider all the evidence in  
19      the case. If after doing so you find that the People  
20      have not proven the defendant's guilt beyond a  
21      reasonable doubt, as I have defined that term to you,  
22      then you must find the defendant not guilty.

23              On the other hand, if you are satisfied that  
24      the People have proved the defendant's guilt beyond a  
25      reasonable doubt, as I have defined that term to you,

1           you must then find the defendant guilty.

2                       Will you now promise me, in your final  
3       deliberations, you will follow and apply the standard  
4       of proof, that is, beyond a reasonable doubt, exactly  
5       as I shall further explain and define that term to you  
6       in my final charge?

7                       PROSPECTIVE JUROR: I would try. I will try.

8                       THE COURT: Now, when you say you will try,  
9       I'm going to be charging the law to you. Will you  
10      promise me that you will follow the law as I charge it?

11                      PROSPECTIVE JUROR: Oh, yes. Yes.

12                      THE COURT: Thank you.

13                      As you heard earlier, ladies and gentlemen,  
14      it is anticipated that one or more police officers will  
15      testify in this case. Will you promise me that you  
16      will give the same evenhanded scrutiny to the testimony  
17      of a police officer than you will give to that of any  
18      other witness?

19                      This is another way of asking whether or not  
20      you will evaluate the credibility of a police officer  
21      just like any other witness.

22                      Each witness's testimony must be weighed upon  
23      its own merits. Every defendant must be judged solely  
24      upon the evidence.

25                      All of us are aware that we may have

1 prejudices or sympathies. Some of you have had  
2 unpleasant experiences which may lead you to believe  
3 that members of a certain group are more honest or less  
4 honest or more or less likely to commit a crime or more  
5 or less likely to commit a particular crime or more or  
6 less likely to be wrongfully accused. It is our law  
7 that the trial jury must decide each case solely and  
8 wholly upon the evidence and upon the evidence alone.

9 It is our law that the trial jury must decide  
10 and render a verdict fairly and impartially, without  
11 reference to race, creed or color; without fear, favor  
12 or sympathy. Since neither bias nor prejudice nor  
13 sympathy can be allowed to interfere with your  
14 deliberations in the jury room, I ask you if there's  
15 anyone here who thinks they might have such feelings,  
16 favorable or unfavorable, about the defendant, any  
17 other witness or any person involved in this trial? If  
18 you have such feelings, you are bound by your oath to  
19 say so.

20 PROSPECTIVE JUROR: I'm very sensitive.

21 THE COURT: You're sensitive? I think we all  
22 are sensitive people. Is that going to affect you from  
23 being a fair and impartial jury juror?

24 PROSPECTIVE JUROR: I'm very emotional. I  
25 don't think I can do that.

1 PROSPECTIVE JUROR: Me too. I feel I'm very  
2 sensitive also.

3 THE COURT: We'll expand upon that when I  
4 individually speak to you in a few moments, okay?

5 Now, I'm going to ask you all, will you all  
6 be able to decide this case solely on the evidence,  
7 without fear, without favor or sympathy either for the  
8 defendant or for the People? Will you bring in a  
9 verdict based solely on the evidence and the evidence  
10 alone?

11 Now, our law requires that I advise you,  
12 ladies and gentlemen of our prospective jury panel, you  
13 are not, I repeat not, during your deliberations to  
14 consider the subject of punishment. Sentencing lies  
15 solely within the exclusive province of the Court and  
16 the jury has no role to play. You are not permitted to  
17 consider the possibility of punishment or penalty in  
18 your deliberations. You may notice, this includes any  
19 recommendation as to sentence in your verdict.

20 Thus, you will see that as a trial jury you  
21 are the sole and exclusive judges of the facts and the  
22 facts alone. This Court is the sole and exclusive  
23 judge of the law and any sentence thereof. Punishment  
24 or penalty will be imposed following the rendering of a  
25 verdict.

1 Will you promise me that you will render your  
2 verdict free from fear, favor or sympathy and without  
3 considering any possibility of sentence or punishment?

4 Again, ladies and gentlemen, it's our law as  
5 trial jurors, you are the sole and exclusive judges of  
6 the facts. Thus, for example, nothing the lawyers say  
7 during the trial is evidence. As a matter of fact,  
8 nothing I say will be evidence.

9 You and you alone will decide from all the  
10 evidence what the facts are in this case. At the same  
11 time, nothing that the lawyers say is the law. It's  
12 the responsibility of the Court to advise all concerned  
13 as to the law that will be applicable in this case. To  
14 put it another way, when you raise your hands to take a  
15 oath as a jurors, when I took my oath as a judge, we  
16 agreed to follow and obey the laws of the State of New  
17 York exactly as given to us by the Legislature and set  
18 forth in our constitution. This simply means that  
19 whether you have any ideas of your own of what you  
20 think the law is or what you think it ought to be, you  
21 must now under your oath cast aside your own ideas of  
22 the law. Upon your oath as jurors, you must accept the  
23 law as I explain it to you, whether you agree with it  
24 or not, and apply the law to the facts as you find the  
25 facts to be in this case.

1                   Therefore, I ask you the following question,  
2                   will you accept the law given to you by me and will you  
3                   apply the law to the facts as you find the facts to be  
4                   in this case?

5                   Let me ask you, any one of you been  
6                   intimidated or embarrassed in any way by any spectators  
7                   at this trial?

8                   Do each of you now have the state of mind  
9                   that will permit you to examine and assess the  
10                  testimony honestly, carefully, fairly, impartially,  
11                  without fear, favor or sympathy either for the People  
12                  or for the defendant?

13                  Now, do any of you in your own best  
14                  conscience or good judgment know of any reason why you  
15                  cannot sit as a fair and impartial juror?

16                  Yes, ma'am?

17                  PROSPECTIVE JUROR: My husband is a retired  
18                  police officer.

19                  THE COURT: It might be better if I know at  
20                  this point. What I will do is, question each one of  
21                  you individually and this way you can bring it to my  
22                  attention and the attorneys' attention.

23                  At this point we will start to question with  
24                  Nicholas Gambino.

25                  How are you, sir?

1 PROSPECTIVE JUROR: Fine. How are you today?

2 THE COURT: Fine, thank you.

3 You checked off that you're not working at  
4 the present time. What did you do?

5 PROSPECTIVE JUROR: I worked with AT&T. I  
6 got laid off because of 9/11.

7 THE COURT: You work in what capacity for  
8 AT&T?

9 PROSPECTIVE JUROR: I was a customer service  
10 representative.

11 THE COURT: Now, you checked off that you  
12 have friends in law enforcement. You want to tell  
13 us --

14 PROSPECTIVE JUROR: Yes. My brother is a  
15 Nassau County Detective.

16 THE COURT: Okay. Also, you checked off  
17 victim of a crime.

18 PROSPECTIVE JUROR: Yes. My ex-wife, it was  
19 about twenty-five years ago, was held up at gunpoint.

20 THE COURT: And was anybody -- could you tell  
21 us, as a result of that --

22 PROSPECTIVE JUROR: I don't believe so. No.

23 Now, you have heard all the questions asked.  
24 Any reason you can't be a fair and impartial juror in  
25 this case?

1 PROSPECTIVE JUROR: I think I could be.

2 THE COURT: Well, you can't be equivocal.

3 You have to, you know, that's kind of like half a loaf.

4 PROSPECTIVE JUROR: Exactly. Exactly.

5 THE COURT: Can you follow the law as I give  
6 it to you?

7 PROSPECTIVE JUROR: Yes. Yes.

8 THE COURT: You will hear all the testimony  
9 from the witness stand. There will be exhibits and  
10 there will be other things you will look at. Will you  
11 promise me you will keep an open mind, listen to the  
12 evidence that comes out. That you will listen to the  
13 law as I charge you at the end of the case. That you  
14 will talk to your fellow jurors and reason with them  
15 and at the end will you promise me you come to a fair  
16 and a reasonable verdict in this case?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Okay. So, you, in essence, you  
19 can be a fair and impartial juror.

20 PROSPECTIVE JUROR: I suppose so. Yes.

21 THE COURT: Okay. Please forgive me if I  
22 pronounce your name wrong, Teppis Blanchard.

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Let's see, you checked off,  
25 you're a therapist.

1 PROSPECTIVE JUROR: Respiratory therapist.

2 THE COURT: You work in a hospital?

3 PROSPECTIVE JUROR: Yes, Nassau.

4 THE COURT: You checked off a lot of no  
5 boxes. So, there's nothing I specifically have to ask  
6 you.

7 Generally, you have heard all the questions  
8 asked; any reason you can't be fair and impartial?

9 PROSPECTIVE JUROR: I don't know. I  
10 volunteer for the police department here in Nassau.  
11 I'm a volunteer.

12 THE COURT: In what capacity? When you say  
13 volunteer --

14 PROSPECTIVE JUROR: Auxiliary police,  
15 traffic, parade that's all.

16 THE COURT: Could you promise us you will  
17 treat a police officer who testifies just like you  
18 would any other witness who testifies from this witness  
19 stand?

20 PROSPECTIVE JUROR: Sure, sure.

21 THE COURT: Okay. So, in essence, can you be  
22 a fair and impartial juror in this case?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Okay. Thank you.

25 Janet Imordino.

1 PROSPECTIVE JUROR: James.

2 THE COURT: James, I'm sorry.

3 PROSPECTIVE JUROR: My handwriting is very  
4 poor.

5 THE COURT: I should have looked up before I  
6 asked.

7 THE COURT: You're right, I can't read your  
8 occupation.

9 PROSPECTIVE JUROR: I'm a registered  
10 representative. I sell stocks and bonds.

11 THE COURT: Okay.

12 THE COURT: Now, you checked off a lot of no  
13 boxes. Let me ask you, you have heard all the  
14 questions asked?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Any reason you can't be a fair  
17 and impartial juror in this case?

18 PROSPECTIVE JUROR: I could be fair and  
19 impartial, yes.

20 THE COURT: Thank you, sir.

21 How are you, ma'am?

22 PROSPECTIVE JUROR: Okay.

23 THE COURT: You checked off unemployed. Did  
24 you do something before that?

25 PROSPECTIVE JUROR: I did interior

1           landscaping for a while.

2                   THE COURT:   Okay.   Now, you checked off a lot  
3           of nos.   So, generally, let me ask you, you have heard  
4           all the questions that were asked?

5                   PROSPECTIVE JUROR:   Yes.

6                   THE COURT:   Any reason you can't be a fair  
7           and impartial juror in this case?

8                   PROSPECTIVE JUROR:   No, I can.

9                   THE COURT:   You can be fair and impartial?

10                  PROSPECTIVE JUROR:   Yes.

11                  THE COURT:   Thank you.

12                  Paul McGuire.

13                  PROSPECTIVE JUROR:   Yes, sir.

14                  THE COURT:   How are you?

15                  PROSPECTIVE JUROR:   Very good.

16                  THE COURT:   You're an administrator at  
17           Jamaica Hospital?

18                  PROSPECTIVE JUROR:   That's correct.

19                  THE COURT:   Are you a physician?

20                  PROSPECTIVE JUROR:   No, I am not.

21                  THE COURT:   You have close friends or  
22           relatives in law enforcement.   You want to tell us  
23           about that?

24                  PROSPECTIVE JUROR:   Life long friend who is a  
25           police officer.   Just buddies.

1 THE COURT: Okay. You also served on a civil  
2 jury?

3 PROSPECTIVE JUROR: Yes, I have.

4 THE COURT: Get to reach a verdict?

5 PROSPECTIVE JUROR: No, we did not.

6 THE COURT: It was a civil case?

7 PROSPECTIVE JUROR: Yes, it was.

8 THE COURT: You also checked off party to a  
9 civil case.

10 PROSPECTIVE JUROR: That's correct.

11 THE COURT: Tell us about that.

12 PROSPECTIVE JUROR: Myself and my employer  
13 were named in a suit for wrongful discharge based on  
14 ethnicity. It was in federal court in Brooklyn.

15 THE COURT: How long ago was that?

16 PROSPECTIVE JUROR: Three years ago -- I'm  
17 sorry, five years ago.

18 THE COURT: Is that case resolved now?

19 PROSPECTIVE JUROR: Yes, it is.

20 THE COURT: Heard all the question that were  
21 asked?

22 PROSPECTIVE JUROR: Yes, I have.

23 THE COURT: Can you be a fair and impartial  
24 juror in this case?

25 PROSPECTIVE JUROR: Yes, I can.

1 THE COURT: Florence Scheinman, how are you?

2 PROSPECTIVE JUROR: I've been better.

3 THE COURT: Why is that?

4 PROSPECTIVE JUROR: I find this very  
5 stressful.

6 THE COURT: It shouldn't be stressful.

7 PROSPECTIVE JUROR: It is to me.

8 THE COURT: Okay. Let me see if we can put  
9 you at ease a little bit here. Now, you're a sales  
10 rep?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: What type of firm is that?

13 PROSPECTIVE JUROR: I work for myself,  
14 representing various cosmetic companies. I travel  
15 every day to Brooklyn, Queens, Nassau, Suffolk and New  
16 York City.

17 THE COURT: So, you're self-employed, is what  
18 you're telling us.

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Now, you have also checked off  
21 law enforcement, friend and relatives; tell us about  
22 that.

23 PROSPECTIVE JUROR: My girlfriend's husband  
24 is a police officer, retired. My other friend's  
25 husband is a retired police officer. And her son is on

1 the police force.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR: In addition, my fiancée  
4 is an attorney with an office in Garden City. As I  
5 said, my son-in-law is with the Appellate Term, he's an  
6 attorney.

7 THE COURT: What kind of law discuss your  
8 fiancée practice?

9 PROSPECTIVE JUROR: General. My son-in-law  
10 is with an Appellate Term. He's an attorney down  
11 there.

12 THE COURT: Okay. Now, you checked off  
13 victim and witness to a crime; do you want to tell us  
14 about that?

15 PROSPECTIVE JUROR: That was my mom. She was  
16 mugged and someone, you know, grabbed her and hurt her.  
17 She was and elderly woman. And they caught him. She  
18 was able to identify him. And she had to go down --

19 THE COURT: She went into court?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Now, where did that take place?

22 PROSPECTIVE JUROR: That happened in  
23 Brooklyn.

24 THE COURT: Now, you also checked off party  
25 to a civil case.

1 PROSPECTIVE JUROR: I had a lawsuit pending.  
2 I owned a promotional modeling agency, where you were  
3 considered an independent contractor. You were  
4 responsible for your own taxes. I had a girl work for  
5 me for a very, very short period, and she used me as  
6 one of the employees. I had to go down and close my  
7 business and reopen it because I could not afford to be  
8 responsible for these taxes. I had done that myself.  
9 I paid my own taxes.

10 THE COURT: Now, you have also checked off  
11 some boxes here. You want to tell us about that?

12 PROSPECTIVE JUROR: No.

13 THE COURT: We will call you up at the end.

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Joyce Campbell, how are you?

16 PROSPECTIVE JUROR: Fine.

17 THE COURT: Okay. You told us you worked as  
18 a clerk, right?

19 PROSPECTIVE JUROR: Yes, law office.

20 THE COURT: Now, there are some things you  
21 wanted to tell me before. You want to tell me now?

22 PROSPECTIVE JUROR: I can't do it, because  
23 I'm too sensitive. I get --

24 THE COURT: You are telling me -- I told you  
25 in part of my precharge, you have to put sympathies

1           aside, can you do that?

2                   PROSPECTIVE JUROR: No.

3           THE COURT: You can't do that?

4                   PROSPECTIVE JUROR: No. I'm very sensitive.

5           THE COURT: Can you listen to the law as I  
6           give it to you and agree to follow the law?

7                   PROSPECTIVE JUROR: I will follow the laws,  
8           yes.

9           THE COURT: Now, you have heard that a police  
10          officer will be testifying. Can you promise me you  
11          will treat them just like any other witness who  
12          testifies before this court?

13                   PROSPECTIVE JUROR: Yes, I can do that.

14          THE COURT: So, the only problem you have is  
15          because you're sensitive? You would be sympathetic?

16                   PROSPECTIVE JUROR: And emotional, too. Very  
17          emotional.

18          THE COURT: We're all emotional. That by  
19          itself -- I'm concerned about, you know, if you are  
20          saying you're sympathetic, that means, I told you in  
21          the precharge that you're not supposed to consider  
22          sympathy. Just listen to the evidence that comes from  
23          the witness stand. Can you promise me that you can put  
24          any sympathies you have aside?

25                   PROSPECTIVE JUROR: I can try.

1 THE COURT: But you can't promise me?

2 PROSPECTIVE JUROR: No.

3 THE COURT: Okay. Thank you.

4 Edna Carrera, how are you?

5 PROSPECTIVE JUROR: Fine. How are you?

6 THE COURT: Good.

7 Now, you're retired. What did do you before  
8 you retired?

9 PROSPECTIVE JUROR: Housewife.

10 THE COURT: And you checked off you were,  
11 let's see, twice you were on jury trial, right?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Both civil?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: And you put, settled out of  
16 court. One was settled out of court?

17 PROSPECTIVE JUROR: Last one was settled.

18 THE COURT: One of the cases you got to  
19 deliberate?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Did you reach a verdict?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Was it a good jury experience for  
24 you?

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: Now, you have heard all the  
2 questions that were asked. Any reason you can't be a  
3 fair and impartial juror in this case?

4 PROSPECTIVE JUROR: I don't know. I will  
5 try, but I don't know if I'm exactly -- I change  
6 opinions as the case goes on.

7 THE COURT: You heard what I said about you  
8 have to listen to your fellow jurors when you're in the  
9 jury room. And they should listen to what you say and  
10 you should listen to what they say. If they have  
11 merits you should listen to them, but not change your  
12 mind because they said it, but because there may be a  
13 reason to change it. Will you promise me you will  
14 listen to them and use the give and take in the jury  
15 room so that you will be a fair and impartial juror?

16 PROSPECTIVE JUROR: I will try. But I don't  
17 want to promise. I don't know how my opinions are  
18 going to change.

19 THE COURT: You're saying if another juror  
20 has an opinion, you're not going to listen to it.  
21 You're going to close your mind to it?

22 PROSPECTIVE JUROR: No. But I may be swayed  
23 another way. That's what I'm afraid of. I'm not set  
24 as I listen.

25 THE COURT: As a juror you're supposed to

1 listen to your fellow jurors and come to a  
2 well-reasoned decision, can you promise us you will do  
3 that?

4 PROSPECTIVE JUROR: I will try.

5 THE COURT: Okay. Thank you.

6 Adam Robbins, how are you?

7 PROSPECTIVE JUROR: How are you?

8 THE COURT: Good, thank you.

9 Now, you have heard all the questions that  
10 were asked.

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Any reason you can't be a fair  
13 and impartial juror in this case?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Okay. Thank you.

16 Anthony Guardina, how are you?

17 PROSPECTIVE JUROR: Fine.

18 THE COURT: You have friends in law  
19 enforcement?

20 PROSPECTIVE JUROR: Three relatives.

21 THE COURT: Relatives.

22 PROSPECTIVE JUROR: Right.

23 THE COURT: Tell us about them please.

24 PROSPECTIVE JUROR: They were Nassau County  
25 Police Officers, retired now.

1 THE COURT: All three are retired now?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Now, you checked off victim and  
4 witness to a crime. Want to tell us about that?

5 PROSPECTIVE JUROR: As far as the victim, my  
6 car was vandalized, okay. As far as witness to a  
7 crime, an assault.

8 THE COURT: Okay. Did you have to go to  
9 court?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Now, you checked off some other  
12 things, can you tell us from there.

13 PROSPECTIVE JUROR: That I would like to  
14 discuss in private.

15 THE COURT: We'll bring you up later then.

16 Mr. Louis German, how are you?

17 PROSPECTIVE JUROR: Fine, thank you.

18 THE COURT: You checked off quite a few  
19 things here. You said that you're a former Assistant  
20 Attorney General.

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: How many years did you do that?

23 PROSPECTIVE JUROR: Six years.

24 THE COURT: And what type of cases did you  
25 handle for the Attorney General's Office?

1 PROSPECTIVE JUROR: I was in charge of the  
2 criminal prosecutions under the education law.

3 THE COURT: Okay. And you also worked in the  
4 Appellate Division, in what capacity?

5 PROSPECTIVE JUROR: Principle Appellate Law  
6 Assistant, handling, among other things, criminal  
7 appeals.

8 THE COURT: Working in the pool?

9 PROSPECTIVE JUROR: Actually, I was assigned  
10 to the presiding justice's chambers.

11 THE COURT: You probably read quite a few  
12 criminal briefs.

13 PROSPECTIVE JUROR: Yes, I have.

14 THE COURT: And you're also, of course, an  
15 attorney. Did you practice law, other than working at  
16 the Appellate Division and AG's?

17 PROSPECTIVE JUROR: I graduated law school, I  
18 immediately went to work for the Attorney General's  
19 Office. From there I went directly to the Appellate  
20 Division. I retired from the State in '91. I have  
21 been practicing privately since 1991, to present.

22 THE COURT: You also check off you sat on a  
23 criminal case.

24 PROSPECTIVE JUROR: Yes, about five years  
25 ago, here.

1 THE COURT: In County Court?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: And did you get to deliberate?

4 PROSPECTIVE JUROR: We did.

5 THE COURT: Did you reach a verdict?

6 PROSPECTIVE JUROR: Yes, we did.

7 THE COURT: Was it a good jury experience for  
8 you?

9 PROSPECTIVE JUROR: I suppose.

10 THE COURT: Okay. That's an answer.

11 Now, you checked off victim of a crime. Want  
12 to tell us about that?

13 PROSPECTIVE JUROR: Had a car stolen. My son  
14 was mugged. Other than that, it's pretty common stuff,  
15 I guess.

16 THE COURT: And checked off party to a civil  
17 case.

18 PROSPECTIVE JUROR: Pardon me?

19 THE COURT: Party to a civil case.

20 PROSPECTIVE JUROR: Yes, I was sued along  
21 with the justices of the Appellate Division, the  
22 Grievance Committee, other attorneys, and several other  
23 parties in criminal -- in supreme and federal court by  
24 a disgruntled former attorney, both matters were.

25 THE COURT: Resolved.

1 PROSPECTIVE JUROR: They were both dismissed.

2 THE COURT: Now, you have heard all the  
3 questions asked. Can you be fair and impartial juror  
4 in this case?

5 PROSPECTIVE JUROR: I think I have a  
6 predisposition probably against the defendants.

7 THE COURT: I'm sorry?

8 PROSPECTIVE JUROR: I would try to be fair.  
9 But I honestly come here with a little bit of a  
10 prosecutorial background.

11 THE COURT: Let me ask you this then, you did  
12 sit on a criminal jury five years ago. Has something  
13 changed from five years ago to today?

14 PROSPECTIVE JUROR: No, I said exactly the  
15 same thing then.

16 THE COURT: Because I wanted to make sure.

17 PROSPECTIVE JUROR: I haven't changed.

18 MR. BIANCAVILLA: I will take him, Judge.

19 THE COURT: Okay, thank you. Sir.

20 Patricia Lovack.

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Now, you checked off friend and  
23 relatives in law enforcement.

24 PROSPECTIVE JUROR: My husband. A lot of  
25 friends. But my husband is retired from the New York

1 City Police Department.

2 THE COURT: Okay. Now, you also checked off  
3 victim of a crime. Want to tell us about that?

4 PROSPECTIVE JUROR: My house was burglarized.

5 THE COURT: How long ago was that?

6 PROSPECTIVE JUROR: About ten years.

7 THE COURT: You heard all the questions  
8 asked.

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Any reason you can't be fair and  
11 impartial in this case?

12 PROSPECTIVE JUROR: Well, I feel that I'm  
13 prejudiced toward the police, I would have to say.

14 THE COURT: So you're telling us that even  
15 though I charge you that you have to treat a police  
16 witness the exact same way as any other witness that  
17 appears on this witness stand, that you would more so  
18 be apt to find the police officer credible, than  
19 somebody who is not a police officer, is that what  
20 you're telling us?

21 PROSPECTIVE JUROR: Yep. Yep.

22 THE COURT: Thank you.

23 Brian Campbell. How are you sir?

24 PROSPECTIVE JUROR: Fine.

25 THE COURT: Now, a systems engineer?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: What is that?

3 PROSPECTIVE JUROR: I build trading systems,  
4 trade stocks and bonds.

5 THE COURT: You checked off victim of a  
6 crime.

7 PROSPECTIVE JUROR: Not me. My family.

8 THE COURT: Tell us about that.

9 PROSPECTIVE JUROR: My mother was mugged a  
10 few times. My dad was mugged at gunpoint. My brother  
11 was mugged at knife point.

12 THE COURT: Now, you have heard all the  
13 questions that were asked. Is there any reason you  
14 can't be fair and impartial in this case?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Thank you, sir.

17 THE COURT: And Kenneth Reed, how are you,  
18 sir?

19 PROSPECTIVE JUROR: Very good.

20 THE COURT: You were an associate court  
21 clerk.

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: You -- I seem to remember, you  
24 said Brooklyn, Manhattan.

25 PROSPECTIVE JUROR: Started out in Manhattan,

1           went to Queens Supreme and I winded up in Kings County.

2           THE COURT: Criminal or civil?

3           PROSPECTIVE JUROR: In Kings County I wound  
4           up as judgment clerk. Prior to that, in Queens, I  
5           worked in the supreme court as a senior court officer.

6           THE COURT: As a senior court officer. Were  
7           you assigned to criminal civil, both?

8           PROSPECTIVE JUROR: All.

9           THE COURT: All over. Now, you have been  
10          retired, how long?

11          PROSPECTIVE JUROR: Six years in July.

12          THE COURT: Party to a civil case?

13          PROSPECTIVE JUROR: When I was a kid I was  
14          hit by a car.

15          PROSPECTIVE JUROR: Case still pending?

16          PROSPECTIVE JUROR: I doubt it. Okay. You  
17          have heard all the questions asked. Can you be a fair  
18          and impartial juror in this case?

19          PROSPECTIVE JUROR: Yes, I believe so.

20          THE COURT: Thank you.

21          There are two people who want to approach the  
22          bench.

23          Counsel, could you come forward, please.

24          (Whereupon, the following takes place at the  
25          Bench, between the Court and Counsel and prospective

1 juror:)

2 THE COURT: Florence Scheinman, come forward  
3 please.

4 THE COURT: Miss Scheinman.

5 PROSPECTIVE JUROR: I really would --

6 THE COURT: You check off here accused and  
7 convicted of a crime. Could you tell about that,  
8 please?

9 PROSPECTIVE JUROR: My husband was convicted  
10 of a crime. And he went to Allenwood. He was an IRS  
11 agent. He was convicted of bribery. He is deceased.

12 THE COURT: In Federal Court?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: How many years ago was that?

15 PROSPECTIVE JUROR: About fifteen years ago.

16 THE COURT: Okay. Now, there was something  
17 else you wanted to tell us?

18 PROSPECTIVE JUROR: Since 9/11, I am I cannot  
19 watch anything. My son worked down there. My son was  
20 there. He was down there. And I cannot watch the  
21 news. I can't watch -- I can't -- couldn't in all good  
22 conscience judge -- sit in judgment of somebody and  
23 know their life is in my hands.

24 I have a medical condition. I took four  
25 pills for me to get here. I have not eaten breakfast

1 or lunch. I am extremely anxious.

2 THE COURT: I can see that.

3 MR. BIANCAVILLA: People consent.

4 PROSPECTIVE JUROR: I'm very distressed.

5 THE COURT: Mr. Chamberlain, any questions?

6 MR. CHAMBERLAIN: I get the sense that she

7 would not be comfortable on this trial.

8 THE COURT: You consent, Mr. Chamberlain?

9 MR. CHAMBERLAIN: I will consent.

10 THE COURT: We'll excuse you.

11 PROSPECTIVE JUROR: Thank you very much. Can

12 I go?

13 THE COURT: You have to see the Clerk.

14 Anthony Guardina.

15 (Whereupon, prospective juror approaches the

16 bench.)

17 THE COURT: Sir, you checked off accused of a

18 crime and convicted of a crime. Tell us about that.

19 PROSPECTIVE JUROR: I was driving under the

20 influence. I plead guilty to speeding about five years

21 ago.

22 THE COURT: Was that here in this County?

23 PROSPECTIVE JUROR: Suffolk County.

24 THE COURT: Now, as a result of that, do you

25 hold any anger toward police officers?

1 PROSPECTIVE JUROR: No, not at all. Not at  
2 all. If anything, I have a bias the other way.

3 THE COURT: When you say bias the other way,  
4 you're more apt to believe a police officer?

5 PROSPECTIVE JUROR: Correct.

6 THE COURT: If I tell you, as you probably  
7 heard a couple of times already, you are supposed to  
8 treat a police officer the same as any other witness  
9 who testifies in this case. Can you assure us you will  
10 do that?

11 PROSPECTIVE JUROR: Um, well, you know, all  
12 things being equal, all things being equal, okay, and  
13 you have two divergent testimony.

14 THE COURT: One was a police officer and one  
15 wasn't.

16 PROSPECTIVE JUROR: I would tend to give the  
17 bias toward the police officer.

18 THE COURT: It you're saying for no other  
19 reason to diverge --

20 PROSPECTIVE JUROR: I'm saying their  
21 credibility was affected in some way.

22 THE COURT: I understand that. If there's  
23 two witnesses, one is a police officer and one is not,  
24 you're telling us that you, just because he's a police  
25 officer, you would believe that witness over the other

1 one?

2 PROSPECTIVE JUROR: I want to be as impartial  
3 as possible.

4 THE COURT: There's no right or wrong answer.

5 PROSPECTIVE JUROR: I understand, I  
6 understand. You know, it would depend on, you know,  
7 the quality of the witness.

8 THE COURT: Certainly those are factors.

9 PROSPECTIVE JUROR: I have a lot of sympathy  
10 for the police. They have a tough job.

11 THE COURT: And, of course, you heard what I  
12 said about sympathy. You're not supposed to  
13 consider --

14 PROSPECTIVE JUROR: Absolutely correct.

15 THE COURT: For either side, sympathy has no  
16 place whatsoever in this case. Could you tell us, can  
17 you put that aside and decide this case solely on the  
18 evidence?

19 PROSPECTIVE JUROR: Possible. Possible.

20 THE COURT: But not necessarily?

21 PROSPECTIVE JUROR: Again, I hope, you know.

22 THE COURT: Okay. Counsel, any questions?

23 MR. BIANCAVILLA: None from the People.

24 MR. CHAMBERLAIN: Consent.

25 MR. BIANCAVILLA: People don't consent,

1 Judge.

2 THE COURT: Have a seat, sir.

3 THE COURT: Counsel, do you want me to fill  
4 the box with respect to --

5 MR. BIANCAVILLA: I think there's another  
6 juror. Juror number four.

7 THE COURT: Lisa Barcheckly.

8 (Whereupon, the prospective juror, Lisa  
9 Barcheckly, approaches the Bench.)

10 THE COURT: Miss Barcheckly, come forward.

11 PROSPECTIVE JUROR: Hi. I think I could do a  
12 good job. I have one problem. I can't sit for long  
13 periods of time. I had spinal surgery last summer.

14 THE COURT: Let me tell you this, first of  
15 all, let me ask you, how long a period can you sit at  
16 any one time?

17 PROSPECTIVE JUROR: About forty-five minutes.

18 THE COURT: Let me tell you this also, we  
19 take lots of breaks during the course of the trial.  
20 And if there's ever a point where you had a problem  
21 where you couldn't sit any longer, you were  
22 uncomfortable, all you have to do is raise your hand  
23 and we certainly would break at that point so you would  
24 be able to stretch or get up.

25 PROSPECTIVE JUROR: Okay. Can I ask a

1 question? Could I sit on an end so I could stand up?

2 THE COURT: You have to sit in a spot where  
3 you are as a juror.

4 PROSPECTIVE JUROR: I mean --

5 THE COURT: No, you can't do that. If you're  
6 juror number one, you have to sit in juror number one's  
7 seat. That's how it works. So, I can't, you may get  
8 lucky and get an end, but I can't, other than that, say  
9 you will.

10 PROSPECTIVE JUROR: If I need to stand, I can  
11 get up?

12 THE COURT: If you want to stretch for a  
13 second, there won't be any problem.

14 Have a seat for a moment.

15 (Whereupon, the prospective juror resumes her  
16 seat in the jury box.)

17 THE COURT: Should I fill seat number six,  
18 Counsel?

19 MR. CHAMBERLAIN: Sure. Why don't we, as  
20 long as we're up here, it's up to you. There are a  
21 number of people I think.

22 THE COURT: Let me preface it by saying, if  
23 the two of you can agree upon them, I would be glad to  
24 do so now. So, by the time the panel gets up, when you  
25 both speak --

1 MR. BIANCAVILLA: Again, Judge, I never -- I  
2 would suggest, I mean, you're going, we have  
3 seventy-two people in here that obviously are going to  
4 have a certain problem that they're going to want to  
5 deal with at the bench. If you dealt with those  
6 problems all at once and we got rid of those people,  
7 then instead of doing fourteen at a time, we would be  
8 able to probably move faster. This is just a  
9 suggestion.

10 THE COURT: I did that at one trial, I'm just  
11 afraid that we get a line of fifty people waiting to  
12 talk.

13 MR. BIANCAVILLA: It's a murder case, you're  
14 going to get that anyway. The last murder case we  
15 picked a jury in, we went through three hundred people  
16 to get fourteen. That's the problem.

17 THE COURT: I would like to try the way  
18 Mr. Chamberlain suggested.

19 MR. BIANCAVILLA: Just a suggestion.

20 THE COURT: In you can agree, why don't we do  
21 that.

22 Counsel, if there's anyone you would like to  
23 remove on consent.

24 MR. BIANCAVILLA: I think, clearly, juror  
25 number 7.

1 THE COURT: Off the record.

2 (Whereupon, there is a discussion held off  
3 the record between the attorneys and the Court.)

4 (Whereupon, the following takes place in open  
5 court:)

6 THE CLERK: Edna Carrera, you're excused.  
7 Please watch your step coming down.

8 (Whereupon, the prospective juror leaves the  
9 courtroom)

10 THE CLERK: Jurors, if your name is called,  
11 please take all your personal belongings with you.

12 First person called will be seated here in  
13 seat number six, Walter Probs. Seat number eight,  
14 Louis Piarulli.

15 (Whereupon, the prospective jurors are seated  
16 in the jury box)

17 THE COURT: Wall Probs, how are you, sir?

18 PROSPECTIVE JUROR: Good.

19 THE COURT: Now, you're a mechanic?

20 PROSPECTIVE JUROR: Yes. Aircraft overhaul  
21 shop in Garden City.

22 THE COURT: You checked off friend in law  
23 enforcement, relatives.

24 PROSPECTIVE JUROR: My uncle is a police  
25 officer in Nassau County. And my best friend is a city

1 police officer. And you also checked off victim of a  
2 crime.

3 PROSPECTIVE JUROR: My relative was shot  
4 right over here on Wendy's. He was shot in the face.

5 THE COURT: How long ago was that?

6 PROSPECTIVE JUROR: I think it was two years  
7 ago. It was a big case.

8 THE COURT: Was anybody arrested in that?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Was there a trial?

11 PROSPECTIVE JUROR: Yes, there was.

12 THE COURT: Did you attend the trial?

13 PROSPECTIVE JUROR: No, I did not.

14 THE COURT: Now, you checked off some other  
15 things here. Do you want to tell us from there?

16 PROSPECTIVE JUROR: If you want.

17 THE COURT: It's up to you. If you feel  
18 comfortable, that will be fine.

19 PROSPECTIVE JUROR: Okay.

20 THE COURT: You know what I'm talking about?

21 PROSPECTIVE JUROR: The victim of a crime was  
22 my cousin. Friend of mine stole a police officer's  
23 car. And I don't know, what else did I check?

24 THE COURT: You wrote accused and convicted.  
25 You checked yes, sir. It was the same person?

1 PROSPECTIVE JUROR: Same person.

2 THE COURT: This person, was he convicted.

3 PROSPECTIVE JUROR: Yes, he was.

4 THE COURT: There was a trial?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Was it here in Nassau County?

7 PROSPECTIVE JUROR: Yes, it was.

8 THE COURT: You understand that the same  
9 district Attorney's office is prosecuting this case  
10 that prosecuted your friend. Would that create a  
11 problem for you?

12 PROSPECTIVE JUROR: I don't think so.

13 THE COURT: You have heard all the questions  
14 asked. Can you be a fair and impartial juror in this  
15 case?

16 PROSPECTIVE JUROR: I think so.

17 THE COURT: You can't think so. Half a loaf.

18 PROSPECTIVE JUROR: I lean toward the police  
19 officer.

20 THE COURT: That's what we want to hear,  
21 things is that might be bothering you that you want to  
22 make us aware of. You say lean toward. Are you  
23 saying, correct me if I'm wrong, are you saying that if  
24 there was a police witness and a civilian witness, you  
25 would be more prone to believe a police witness?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: That's what you're telling me?

3 PROSPECTIVE JUROR: Yes, I definitely would.

4 THE COURT: Thank you.

5 Louis Piarulli, how are you?

6 PROSPECTIVE JUROR: Okay.

7 THE COURT: Now, you checked off retired.

8 What did you do before you retired?

9 PROSPECTIVE JUROR: Long Island Railroad.

10 THE COURT: Conductor?

11 PROSPECTIVE JUROR: No, electrician.

12 THE COURT: You work in one of the shops?

13 PROSPECTIVE JUROR: No, outside.

14 THE COURT: Okay. Now, you checked off law  
15 enforcement. What to tell us about that?

16 PROSPECTIVE JUROR: My son-in-law and nephew.

17 THE COURT: Also victim of a crime.

18 PROSPECTIVE JUROR: I was robbed in New York  
19 and my house was robbed twice.

20 THE COURT: You mean burglarized.

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Now, you have heard all the  
23 questions that were asked. Any reason you can't be a  
24 fair and impartial juror?

25 PROSPECTIVE JUROR: I don't know.

1 THE COURT: Well, it's kind -- that's kind of  
2 a equivocal answer to use, for lack of a better word.

3 You heard the questions I asked with respect  
4 to how you listen to the evidence and listen to the  
5 law. Do you feel that you won't let sympathy sway you?  
6 Do you follow me, that you will follow the law as I  
7 tell you? Do you follow me, that will you assure me  
8 that you will listen to the evidence in this case and  
9 then if you're picked for this jury, you're sitting in  
10 the jury room, you will listen to your fellow jurors  
11 and there will be the give and take that goes back in  
12 the deliberations and come to that well-reasoned  
13 verdict?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: You will do that?

16 PROSPECTIVE JUROR: Well --

17 THE COURT: You're kind of shaking your head.

18 PROSPECTIVE JUROR: Well, I don't know.

19 THE COURT: Is there something at this point  
20 that is bothering you, that you feel would -- that we  
21 should know, that would tell us that perhaps you might  
22 not be best suited to sit on this case?

23 PROSPECTIVE JUROR: I have no idea. I don't  
24 know.

25 THE COURT: Okay. Well, thank you, sir.

1                   Okay, ladies and gentlemen, at this point  
2                   we're going to take a very short break.

3                   Okay. Now, I'm going to admonish you at this  
4                   point. Do not converse among yourselves or with anyone  
5                   else upon any subject connected with this trial. Do  
6                   not read or listen to any accounts or discussion of  
7                   this case in the event it's reported in the newspapers  
8                   or other media. Do not view or visit the premises or  
9                   place where the offense or offenses charged were  
10                  allegedly committed. Do not visit any other courtroom.  
11                  And promptly report to the Court any incident within  
12                  your knowledge of, or any attempt by any person to  
13                  improperly influence you or any member of the jury.

14                  Follow the court. Officers we will be back  
15                  with you in ten minutes.

16                  THE COURT OFFICER: Jurors step this way.

17                  (Whereupon, the panel of prospective jurors  
18                  leave the courtroom)

19                  (Whereupon, there is a brief recess taken in  
20                  the proceedings.)

21                  THE COURT OFFICER: Jurors entering.

22                  (Whereupon, the panel of prospective jurors  
23                  enter the courtroom)

24                  THE CLERK: Continued case on trial. All  
25                  parties are present.

1 Counsel stipulate potential jurors are all  
2 present and seated in the proper order?

3 MR. BIANCAVILLA: So stipulated.

4 MR. CHAMBERLAIN: So stipulated.

5 THE CLERK: Thank you.

6 THE COURT: We are now ready for Counsel to  
7 address you.

8 We will begin with Mr. Biancavilla.

9 MR. BIANCAVILLA: Thank you, your Honor.

10 (Whereupon, Assistant District Attorney  
11 Robert Biancavilla commences his voir dire examination  
12 of the prospective jurors seated in the jury box  
13 regarding their qualifications to sit as sworn jurors  
14 on the case in chief, not having been recorded, not  
15 having been transcribed)

16 THE COURT: Thank you, Mr. Biancavilla.

17 Mr. Chamberlain.

18 MR. CHAMBERLAIN: May we approach?

19 (Whereupon, the following takes place at the  
20 Bench, between the Court and Counsel.)

21 MR. CHAMBERLAIN: Again, in the interest of  
22 saving time, I heard a number of witnesses say, flat  
23 out, that they couldn't be fair and impartial even  
24 after the district attorney tried to get them to say  
25 they could.

1 Based upon that --

2 THE COURT: Mr. Chamberlain, perhaps you  
3 could rehabilitate them, I don't know.

4 MR. CHAMBERLAIN: I'm not interested in  
5 rehabilitating them I'm interested in saving time.

6 THE COURT: Not at this juncture, after the  
7 People have already gone. Perhaps before it might have  
8 been different. The People have already used their  
9 time. I'm not going to let you do anything but proceed  
10 with your time and we will deal with cause after.

11 MR. CHAMBERLAIN: Very good, sir.

12 THE COURT: Absolutely.

13 (Whereupon, the following takes place in open  
14 court:)

15 (Whereupon, Mr. John Chamberlain commences  
16 his voir dire examination of the prospective jurors  
17 seated in the jury box regarding their qualifications  
18 to sit as sworn jurors on the case in chief, not having  
19 been recorded, not having been transcribed)

20 MR. BIANCAVILLA: Objection. Motive is not  
21 an element of the crime.

22 THE COURT: Ladies and gentlemen, I will  
23 charge you with respect to the law, as to what the law  
24 is, at the conclusion of the case.

25 MR. CHAMBERLAIN: I'll go on, Judge. Thank

1           you.

2                       (Whereupon, Mr. Chamberlain continued with  
3           his voir dire examination of the prospective jurors.)

4                       THE COURT: Thank you very much, ladies and  
5           gentlemen.

6                       Counsel, when you're ready, please approach  
7           the Bench.

8                       (Whereupon, the following takes place at the  
9           Bench, between the Court and Counsel:)

10                      THE COURT: Ready.

11                      THE CLERK: Do the People have any challenges  
12           for cause as to one through twelve?

13                      MR. BIANCAVILLA: None for cause.

14                      THE CLERK: Defense counsel, any challenges  
15           for cause, one through twelve?

16                      MR. CHAMBERLAIN: You want to go in that  
17           order?

18                      MR. CHAMBERLAIN: Lovack.

19                      THE COURT: Which number?

20                      MR. CHAMBERLAIN: She's number -- number  
21           twelve.

22                      THE COURT: Granted.

23                      MR. CHAMBERLAIN: Number eleven.

24                      THE COURT: Granted.

25                      THE CLERK: Number eleven?

1 THE COURT: Yes.

2 MR. CHAMBERLAIN: Number ten.

3 THE COURT: Granted.

4 MR. CHAMBERLAIN: I guess he's number number  
5 eight.

6 THE COURT: Granted.

7 THE CHAMBERLAIN: Mr. Gambino, number one.

8 THE COURT: He told us he had to hear both  
9 sides. Yes, I'm going to grant that.

10 MR. CHAMBERLAIN: Number five.

11 THE COURT: Could you tell me why you feel  
12 you're moving for cause on number five?

13 MR. CHAMBERLAIN: My notes indicate he has  
14 any number of police officer friends and --

15 THE COURT: Just because your friends are  
16 police officers, doesn't mean you can be --

17 MR. CHAMBERLAIN: I think I had something  
18 else.

19 MR. BIANCAVILLA: I think, he clearly said he  
20 could be fair and impartial. Because I expressly went  
21 into that with him.

22 THE COURT: Anything else, Mr. Chamberlain?

23 MR. CHAMBERLAIN: Okay.

24 THE COURT: I'm going to deny that challenge  
25 for cause.

1 MR. CHAMBERLAIN: Okay, Judge.

2 MR. CHAMBERLAIN: Probs is number six.

3 THE COURT: Yes, Mr. Probs indicated the  
4 defendant must testify. He would have a problem if he  
5 didn't. So, I'm going to grant that challenge for  
6 cause.

7 THE COURT: Anymore for cause,  
8 Mr. Chamberlain?

9 MR. CHAMBERLAIN: No.

10 THE CLERK: Do the People have any peremptory  
11 challenges, one through twelve?

12 MR. BIANCAVILLA: Number three.

13 THE COURT: Okay.

14 MR. BIANCAVILLA: Number four, number seven.

15 MR. CHAMBERLAIN: Are we going for perempts  
16 now?

17 THE COURT: Yes. So far, Mr. Biancavilla has  
18 perempts three four and seven.

19 THE CLERK: Two, five and nine are remaining.

20 MR. BIANCAVILLA: No, that's it.

21 THE COURT: Mr. Chamberlain, numbers two,  
22 five and nine are remaining for perempts.

23 MR. CHAMBERLAIN: I'm going to exercise on  
24 five and nine.

25 THE COURT: Five and nine.

1 THE COURT: So, number two will be sworn.

2 THE CLERK: Do the People have any challenges  
3 for cause, number thirteen and fourteen?

4 MR. BIANCAVILLA: No.

5 THE CLERK: Defense counsel, challenge for  
6 cause number thirteen or fourteen?

7 MR. CHAMBERLAIN: Fourteen has a problem. He  
8 was a clerk.

9 THE COURT: Put your reasons on the record  
10 with respect to fourteen.

11 MR. CHAMBERLAIN: My notes indicate, at one  
12 point he worked for the DA's Office. He worked in  
13 criminal way back. But subsequently he worked court  
14 parts as a court clerk dealing with a lot of police  
15 officers for many years. I think his association with  
16 the prosecutorial end is too close. He seemed  
17 uncertain. My indication is he would -- he said he  
18 would lean toward the police officer in the credibility  
19 issue, because -- and I have a word I can't read prior  
20 association, because he had no ax to grind.

21 THE COURT: Mr. Biancavilla?

22 MR. BIANCAVILLA: Judge, I think he said he  
23 could fairly evaluate the evidence. And he said he  
24 would use the same tests to evaluate both police  
25 officer testimony and civilian testimony.

1 THE COURT: Merely because someone works  
2 within the court system doesn't mean he can't be fair  
3 and impartial.

4 THE COURT: Addressing that question first,  
5 just because this man told us he's been an associate  
6 court clerk, I think it was twenty-seven years he was a  
7 court officer and court clerk, doesn't mean he can't be  
8 a fair and impartial juror.

9 There's nothing about what he did for a  
10 living that would cause me to believe he can't be fair  
11 and impartial.

12 Also, it seems to me, he's told us that he  
13 can fairly and impartially evaluate the evidence.

14 I'm going to deny that request for cause.

15 THE CLERK: Do the People wish to exercise a  
16 peremptory challenge, thirteen or fourteen?

17 MR. BIANCAVILLA: No.

18 THE CLERK: Peremptory challenge as to  
19 thirteen or fourteen by defense?

20 MR. CHAMBERLAIN: Fourteen.

21 THE COURT: Number thirteen will be sworn.  
22 We'll them home until Monday?

23 MR. BIANCAVILLA: Sure.

24 MR. CHAMBERLAIN: Fine with me.

25 (Whereupon, the following takes place in open

1 court:)

2 THE CLERK: Jurors, may I have your  
3 attention, please.

4 The following jurors have been selected to I  
5 serve on this jury:

6 Pep advertise, Mr. Blanchard, number two, and  
7 Brian Campbell.

8 If I did not call your name, you are excused  
9 with the thanks of the Court. Please gather your  
10 personal belongings -- the jurors in the box only,  
11 gather your personal belongings and step out of the  
12 box. Follow the instructions of the court officers.

13 Are these jurors satisfactory to the People?

14 MR. BIANCAVILLA: Yes, they are, your Honor.

15 THE CLERK: Satisfactory to the defense?

16 MR. CHAMBERLAIN: Yes, they are, your Honor.

17 THE COURT: Shall I swear them, Judge?

18 THE COURT: Yes, please.

19 (Whereupon, the selected jurors are duly  
20 sworn by the Clerk of the Court to sit as sworn jurors  
21 on the case in chief.)

22 THE COURT: Okay I'm addressing the two sworn  
23 jurors. At this point we're going to excuse you and  
24 ask you to come back on Monday morning at 9:30 when we  
25 expect to start the trial.

1                   So, you do not have to report tomorrow or  
2                   Friday. We'll see you Monday morning. The court  
3                   officers will tell you exactly where to report.

4                   Now, of course, I'm going to remind you, I  
5                   want to admonish you, you must not converse among  
6                   yourselves or with anyone else about any subject  
7                   connected with this trial. You must not read or listen  
8                   to any account or discussion of this case, in the event  
9                   it's reported in the newspapers, or news media. And  
10                  that includes the internet. You must not visit or view  
11                  the premises where the offense or offenses charged were  
12                  allegedly committed. And you must promptly report to  
13                  the Court any incident within your knowledge involving  
14                  any attempt by any person to improperly influence any  
15                  member of the jury. Finally, do not visit any  
16                  courtroom in this building or any other building.

17                  Sometimes parking will be a problem. If we  
18                  want to start at 9:30 it's better if you get here at  
19                  nine and go for a cup of coffee.

20                  Have a nice rest of the week and weekend and  
21                  we'll see you Monday morning.

22                  (Whereupon, the sworn jurors leave the  
23                  courtroom)

24                  THE CLERK: Jurors, once again, if you hear  
25                  your name called, please gather all your personal

1 belongings, have your questionnaires out and hand them  
2 to the officer, please.

3 (Whereupon, fourteen prospective jurors are  
4 seated in the jury box to commence questioning  
5 regarding their qualifications to sit as sworn jurors  
6 on the case in chief:)

7 Ladies and gentlemen, at this time we will  
8 break for the day. Those of you seated in the box now,  
9 remember where you're seated because I'm going to ask  
10 you when the court officers let you back into the  
11 courtroom, to take the same exact seats.

12 Those in the back can take any seat in the  
13 back, but come back.

14 So, I want to remind you of certain things.  
15 But before I do that, I want to tell you, I want to ask  
16 you to get here, I want to try to start between 9:45  
17 and ten o'clock. I'm going to ask you to be here for  
18 9:45. Again, I'm going to mention, as I said before,  
19 sometimes it's difficult to park here. So, I'm going  
20 to suggest you get here early, nine, 9:15, in order to  
21 get a parking space so this way you can get a cup of  
22 coffee or breakfast so you can report to the courtroom  
23 around 9:45.

24 Again, ladies and gentlemen, you must not  
25 converse among yourselves or with anyone else upon any

1 subject connected with the trial. You must not read or  
2 listen to any accounts or discussions of this case in  
3 the event it is reported by the newspapers or other  
4 media, including the internet. You must not visit or  
5 view the premises where the offenses or offenses  
6 allegedly were committed or any other premises involved  
7 in the case. You must promptly report to the Court any  
8 incident within your knowledge involving any attempt by  
9 any person to improperly influence any member of the  
10 jury. Finally, did not visit any other courtroom in  
11 this building or any other building.

12 Have a very nice evening. We'll see you  
13 tomorrow morning. The court officers will tell you  
14 exactly where to go.

15 (Whereupon, the panel of prospective jurors  
16 leave the courtroom.)

17 THE COURT: Counsel, see you tomorrow morning  
18 at 9:45.

19 (Whereupon, court stands in recess for the  
20 day. The trial is adjourned to May 2nd, 2002 at 9:45  
21 a.m. to continue jury selection.)  
22  
23  
24  
25